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BEFORE THE

ILLINOIS COMMERCE COMMISSION

AMEREN TRANSMISSION COMPANY) Docket No.
OF ILLINOIS) 14-0514

Petition for a Certificate of Public
Convenience and Necessity, pursuant to Section
8-406 of the Illinois Public Utilities Act, and an
Order, pursuant to Section 8-503 of the Public
Utilities Act, to Construct, Operate, and Maintain
a New High Voltage Electric Service Line in the
Counties of Peoria and Knox, Illinois.

Wednesday, May 13, 2015

Springfield, Illinois

Met, pursuant to notice, at 9:00 AM.

BEFORE:

Janis Von Qualen, Administrative Law Judge
John Albers, Administrative Law Judge

APPEARANCES:

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22 MIDWEST LITIGATION SERVICES, by
Robin A. Enstrom, RPR, CSR
23 CSR No. 084-002046
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1 PROCEEDINGS

2 JUDGE VON QUALEN: Good morning all.

3 Thank you for your patience.

4 By the authority vested in me by the
5 Illinois Commerce Commission, I now call Docket
6 No. 14-0514. This concerns the petition by
7 Ameren Transmission Company of Illinois for a
8 Certificate of Public Convenience and Necessity,
9 pursuant to Section 8-406 of the Public Utilities
10 Act, and an Order, pursuant to Section 8-503 of
11 the Public Utilities Act, to construct, operate,
12 and maintain a new high volt electric service
13 line in the Counties of Peoria and Knox,
14 Illinois.

15 May I have the appearances for the
16 record.

17 MR. FITZHENRY: Yes. On behalf of
18 the petitioner, Ameren Transmission Company of
19 Illinois, my name is Edward Fitzhenry.

20 MR. STURTEVANT: And also on behalf
21 of Ameren Transmission Company of Illinois,
22 Albert Sturtevant, Rebecca Segal, and Hanna
23 Conger of Whitt Sturtevant, LLP.

24 MR. MCMURTRY: My name is William

1 McMurtry. I'm a landowner intervenor, and I live
2 at 9900 North Thousand Dollar Road.

3 MS. TOMLINSON: Kellie Tomlinson,
4 intervenor landowner along Route A.

5 JUDGE VON QUALEN: Would you check to
6 see that your microphone is on.

7 MS. TOMLINSON: It is on.

8 JUDGE VON QUALEN: Is is on? Okay.
9 Thank you.

10 MR. PHILLIPS: Good morning, Your
11 Honors. Jonathan Phillips of Shay Phillips.
12 Address is on the record from yesterday. Here
13 for the Knox County Landowner Intervenors, Peoria
14 County Landowner I-74 Intervenors, and Charles
15 and Annette Zelnio.

16 MR. WILKE: And Kurt Wilke on behalf
17 of the CARB, C-A-R-B.

18 JUDGE VON QUALEN: Is there anyone on
19 the telephone wishing to enter an appearance?

20 MR. SAGONE: Yes, Your Honor. Thank
21 you. On behalf of the Staff witnesses of the
22 Illinois Commerce Commission, John Sagone,
23 Christine Ericson, and Matthew Harvey. Address
24 should be on record from yesterday.

1 MR. PALMER: Yes. This is Thomas
2 Palmer, Intervenor. My address is 14816 West
3 Winchester Drive, Brimfield, Illinois.
4 COURT REPORTER: What was your last
5 name?
6 JUDGE VON QUALEN: What was your last
7 name?
8 MR. PALMER: Palmer.
9 JUDGE VON QUALEN: And spell that,
10 please.
11 MR. PALMER: P-a-l-m-e-r.
12 JUDGE VON QUALEN: And you said
13 you're from Brimfield?
14 MR. PALMER: Yes, ma'am.
15 JUDGE VON QUALEN: Thank you.
16 Is there anyone else on the phone or
17 present here in the room who wishes to enter an
18 appearance?
19 MR. MASON: Jack Mason from Bethany
20 Baptist Church, at 7422 North Heinz Lane,
21 Edwards. Want to enter an affidavit
22 JUDGE VON QUALEN: All right.
23 MR. SHIPLEY: Matt and Jan Shipley of
24 Gilson, Illinois.

1 JUDGE VON QUALEN: Is there anyone
2 else who wishes to enter an appearance?

3 (No response.)

4 JUDGE VON QUALEN: Let the record
5 show no response.

6 This matter comes on this morning for
7 the continuation of the evidentiary hearing.

8 Are there any preliminary matters?

9 MR. PHILLIPS: Your Honor, if I may,
10 we just had an affidavit submitted for Charles
11 Zelnio this morning, and if you wanted, we could
12 go ahead and move his testimony in via affidavit.

13 JUDGE VON QUALEN: That would be
14 fine.

15 MR. PHILLIPS: Okay. Your Honors, on
16 December 15th, Charles Zelnio filed his direct
17 testimony which was marked as Zelnio Exhibit 1.0.
18 It consisted of seven pages.

19 On that same day, he also filed his
20 Exhibit A to his direct testimony, which was a
21 single page, which was marked as Exhibit -- or
22 Zelnio Exhibit 1.01.

23 This is the only written testimony
24 that Mr. Zelnio submitted in this; and, again,

1 his affidavit was filed this morning, and it's
2 been marked for reference as Zelnio Exhibit 1.02,
3 and I believe provides the grounds to allow for
4 the admission of his testimony via affidavit, and
5 as such, we'd ask for 1.0 and 1.01 to be moved
6 into the record.

7 JUDGE VON QUALEN: Are there any
8 objections to Mr. Zelnio's testimony?

9 (No response.)

10 JUDGE VON QUALEN: Hearing none, it
11 is entered into evidence.

12 MR. PHILLIPS: Thank you, Your Honor.

13 JUDGE VON QUALEN: Mr. Palmer, on the
14 phone, would you like to move your testimony into
15 evidence?

16 MR. PALMER: Yes, ma'am, I would. I
17 have Exhibit 1, Thomas Palmer Rebuttal Testimony,
18 that was submitted to the e-Docket on April 7,
19 2015, and I also submitted an affidavit on May
20 7th, I believe it was.

21 JUDGE VON QUALEN: Does your
22 testimony have an exhibit number on it?

23 MR. PALMER: Exhibit 1.

24 JUDGE VON QUALEN: Very well. Are

1 there any objections to Mr. Palmer's testimony?

2 (No response.)

3 JUDGE VON QUALEN: Hearing none,
4 Palmer Exhibit 1 is entered into evidence, as
5 well as Mr. Palmer's affidavit, which was
6 indicated as 1.02. So 1. -- 1.0, 1.01, and 1.02.

7 Is there anyone else on the telephone
8 who wishes to move their testimony into evidence
9 at this time?

10 MR. MASON: Yes. Jack Mason from
11 Bethany Baptist Church.

12 JUDGE VON QUALEN: And what are you
13 moving into evidence?

14 MR. MASON: Let's see. Would be the
15 rebuttal testimony that I submitted on April 7,
16 2015, should be Exhibit 1, and then an affidavit
17 submitted the 11th of May.

18 JUDGE VON QUALEN: Is there any
19 objection to Bethany Baptist Exhibit 1 or the
20 affidavit, which was submitted subsequently, this
21 morning?

22 (No response.)

23 JUDGE VON QUALEN: Hearing no
24 objections, the testimony and the affidavit are

1 entered into evidence.

2 MR. MASON: Thank you.

3 JUDGE VON QUALEN: Mr. Mason, did you
4 mark the affidavit with an exhibit number?

5 MR. MASON: I -- I don't believe that
6 this has a -- the first one was Exhibit 1. That
7 is clearly marked on there. I don't see that
8 it's marked.

9 JUDGE VON QUALEN: All right. We'll
10 call your affidavit Bethany Baptist Exhibit 2.

11 MR. MASON: Thank you.

12 JUDGE VON QUALEN: Those exhibits are
13 entered into evidence.

14 Is there anyone else on the telephone
15 who wishes to enter their testimony into evidence
16 at this time?

17 (No response.)

18 JUDGE VON QUALEN: Hearing none, are
19 there witnesses in the room who are going to
20 testify today?

21 Would each of you stand and raise
22 your right hand.

23 (All witnesses were duly sworn.)

24 JUDGE VON QUALEN: I believe Mr.

1 Klein is the first witness.

2 MR. FITZHENRY: Yes, Your Honor. The
3 Company calls Mr. Klein to the stand.

4 LUCAS KLEIN,
5 of lawful age, having been produced, sworn, and
6 examined on behalf of the Company, testified as
7 follows:

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. FITZHENRY:

10 Q. Good morning, Mr. Klein.

11 A. Good morning.

12 Q. Can you please state your name and
13 business address for the record.

14 A. Yes. My name is Lucas Klein,
15 K-l-e-i-n. Business address is 1901 Chouteau
16 Avenue, St. Louis, Missouri 63166.

17 Q. And, Mr. Klein, on whose behalf are
18 you testifying in this docket?

19 A. ATXI's.

20 Q. Mr. Klein, I show you what's been
21 previously marked for identification as ATXI
22 Exhibit 4.0, titled the Direct Testimony of Lucas
23 Klein, and ask if that is the direct testimony
24 you intend to submit into the record in this

1 proceeding.

2 A. Yes, it is.

3 Q. And does this testimony consist of 13
4 pages of questions and answer, an Appendix A, as
5 well as Exhibits 4.1 through 4.3?

6 A. Yes, it does.

7 Q. And were these testimony -- was this
8 testimony and these exhibits prepared by you or
9 under your direction and supervision?

10 A. Yes, they were.

11 Q. Do you have any corrections to either
12 the testimony or the exhibits?

13 A. No, sir, I do not.

14 Q. And so, Mr. Klein, if I were to ask
15 you the questions set forth in ATXI Exhibit 4.0,
16 would you give the same answers today?

17 A. Yes, I would.

18 Q. Thank you.

19 Now I direct your attention to what's
20 been, again, marked for identification in this
21 proceeding as ATXI Exhibit 12.0, titled Rebuttal
22 Testimony of Lucas Klein, and ask if that is the
23 rebuttal testimony that you intend to be
24 submitted into the evidentiary record in this

1 proceeding.

2 A. Yes, it is.

3 Q. Does this testimony consist of 13
4 pages of questions and answers?

5 A. Yes.

6 Q. And was this testimony prepared by
7 you or under your direction and supervision?

8 A. Yes, it was.

9 Q. Do you have any corrections to this
10 testimony?

11 A. No.

12 Q. And if I were to ask you the
13 questions set forth in ATXI Exhibit 12.0, would
14 you give the same answers today?

15 A. Yes.

16 Q. And now, finally, Mr. Klein, I direct
17 your attention to what, again, has been marked
18 for the record in this proceeding as ATXI Exhibit
19 19.0, titled the Surrebuttal Testimony of Lucas
20 Klein, and ask if that is the surrebuttal
21 testimony you intend to offer into this
22 proceeding.

23 A. Yes.

24 Q. And does this testimony consist of 12

1 pages of questions and answers as well as Exhibit
2 19.1?

3 A. Yes, it does.

4 Q. And was the testimony and exhibit
5 prepared by you or under your direction and
6 supervision?

7 A. Yes.

8 Q. Do you have any corrections to either
9 the testimony or the exhibit?

10 A. No.

11 Q. If I were to ask you the questions
12 set forth in your testimony, would you give the
13 same answers today?

14 A. Yes.

15 Q. Thank you, Mr. Klein.

16 Your Honor, at this time the Company
17 moves into the record ATXI 4.0, Appendix A,
18 Exhibits 4.1 through 4.3, ATXI Exhibit 12.0, and
19 finally ATXI Exhibit 19.0 and Exhibit 19.1 and
20 tender Mr. Klein for cross-examination.

21 JUDGE ALBERS: All right. Thank you.
22 We'll rule on the admissibility following
23 cross-examination.

24 Several folks reserved cross-exam

1 time. So anyone have a preference as to who goes
2 first?

3 MR. WILKE: I'd be happy to. I just
4 have a few questions.

5 JUDGE ALBERS: Go ahead.

6 CROSS-EXAMINATION

7 QUESTIONS BY MR. WILKE:

8 Q. Mr. Klein, my name is it Kurt Wilke.
9 I represent the Citizens Against Route B.

10 COURT REPORTER: I need you to speak
11 up, please.

12 Q. (By Mr. Wilke) I just want to ask
13 you two -- two basic questions, I guess.

14 First is I want you to confirm that
15 you prepared a construction schedule for the
16 project, and you've identified that as ATXI
17 Exhibit 4.3; is that correct?

18 A. Let me check the exhibit number, but
19 I believe that's correct.

20 Yes, that's correct.

21 Q. And about two thirds of the way down
22 on that exhibit is a line that states
23 "Right-of-way clearing." Do you see that?

24 A. Yes, I do.

1 Q. And that's followed by "Foundation
2 installation," "Line construction," and "Final
3 inspections"; is that right?

4 A. Yes, sir. That's correct.

5 Q. And can you confirm that, for those
6 four items, your crews need to be physically on
7 the easement areas of the route.

8 A. I can confirm that at some point in
9 that time window they will be throughout the
10 route on the easements, yes. So not necessarily
11 on every easement the entire time.

12 Q. Right.

13 A. If that makes sense.

14 Q. And the schedule for those four items
15 runs from November 15, 2016, through November 14,
16 2017; is that right?

17 A. That's not correct. From November 15
18 of 2016, for right-of-way clearing, until final
19 inspections on November 14 of 2018.

20 Q. Or 2018. I'm sorry. Correct. Okay.
21 Thanks.

22 I also want to follow up on a
23 question that Judge Von Qualen asked Mr. Nelson
24 yesterday.

1 You provided cost estimates for these
2 routes; correct?

3 A. Yes. With input from others from
4 ATXI.

5 Q. And I'd like to show you, just to use
6 as an illustration, the page from the detailed
7 route maps, if I can. This is, for reference,
8 page 35 of the route maps, ATXI Exhibit 8.2,
9 Appendix B, part 7, page 2, and I have copies if
10 anybody needs them.

11 May I approach the witness?

12 JUDGE ALBERS: Yes. Would you give
13 that page, again, please? I got it here.

14 MR. WILKE: It's Appendix B, part 7,
15 page 2.

16 MR. FITZHENRY: Mr. Wilke, just to
17 clarify, this is an exhibit from Mr. Koch's
18 testimony?

19 MR. WILKE: Yes.

20 MR. FITZHENRY: Okay. Thank you.

21 MR. WILKE: Correct.

22 Q. (By Mr. Wilke) And I recognize you
23 didn't prepare this exhibit, but I just wanted to
24 ask you to use this page of the maps for

1 illustration purposes.

2 And can you just confirm that this is
3 page 35 of the detailed route maps?

4 A. Yes. It says page 35 at the bottom,
5 yes, sir.

6 Q. Okay. Do you see where the route
7 cuts through diagonally a farm field in the
8 middle of the page there?

9 A. Yes, I see that.

10 Q. And north of that diagonal, the route
11 line appears to follow at a center section line?

12 A. It does, yes, sir.

13 Q. And below that diagonal the route
14 cuts vertically through other farms and, in at
15 least one case, appears to follow a property
16 line; is that correct?

17 A. Yes. That appears to be correct.

18 Q. And the question is did you cost
19 segments differently because, for example, a
20 diagonal segment through a farm field may have a
21 more adverse effect than a segment along a
22 section line?

23 A. Just to clarify your question, in
24 relation to the easement costs?

1 Q. Correct.

2 A. The easement costs were not costed
3 differently for a diagonal -- in this instance,
4 for that diagonal differently than they were for
5 the vertical section.

6 Q. Okay. Thank you. That's all I have.

7 JUDGE ALBERS: All right. Thanks,
8 Mr. Wilke.

9 Who wants to go next? Volunteers?

10 MR. PHILLIPS: Be happy to, Your
11 Honor.

12 CROSS-EXAMINATION

13 QUESTIONS BY MR. PHILLIPS:

14 Q. Good morning, Mr. Wilke [sic]. My
15 name is Jon Phillips. I represent a series of
16 landowner intervenors in this docket.

17 Just to confirm -- and I believe
18 Mr. Wilke touched on it -- but a good portion of
19 your testimony is dedicated to the cost of
20 constructing the project. Isn't that true?

21 A. Yes, that's correct.

22 Q. And throughout your testimony you
23 provided estimated costs of ATXI's proposed Route
24 A, ATXI's proposed Route A with the Zelnio

1 modification, ATXI's Route A with the Ramp
2 proposed modifications, and -- yeah. I believe
3 you provided cost estimates for all those,
4 haven't you?

5 A. At different points in time, yes,
6 sir.

7 Q. Okay. And of those cost estimates,
8 you always included any increased costs because
9 of length or increased number of structures;
10 isn't that correct?

11 A. That is correct.

12 Q. And you included costs -- cost
13 increases from crossing difficult terrain or
14 low-lying areas?

15 A. As best as we could, or as best as I
16 could. And there's not a straightforward method
17 to quantify crossing all of the areas, the
18 low-lying areas or the more difficult terrain,
19 but we use -- or I use both the direct method by
20 calculating crane mats or access development, and
21 then added contingency on top of it, on top of
22 those direct estimated components, to account for
23 the variability in the routes.

24 Q. Okay. And, in particular, for your

1 cost estimate for Ramp's proposed Alt. 1
2 modifications to both Routes A and B, you
3 included costs for vegetation clearing and
4 additional erosion control measures; isn't that
5 correct?

6 A. For -- could you repeat the question,
7 please? I'm sorry.

8 Q. No. By all means. When you did your
9 cost estimates for Ramp's proposed Alt. 1
10 modifications where he modified Routes A and B --

11 A. Yes.

12 Q. -- when you did so, you included
13 costs for the vegetation clearing and additional
14 erosion control measures; is that correct?

15 A. Both are true.

16 Q. And the estimated costs for
17 construction -- can they vary from minus 20
18 percent to plus 30 percent?

19 A. Can you direct me to where I may have
20 mentioned that?

21 Q. By all means. It would be your data
22 request response to SP to ATXI 3.03, and I have a
23 copy if that will --

24 A. Please.

1 Q. Here you are, sir.

2 A. Thank you.

3 MR. PHILLIPS: And would Your Honors

4 like copies?

5 JUDGE ALBERS: Sure.

6 MR. STURTEVANT: It's confidential.

7 I'm not --

8 MR. FITZHENRY: Well, I'm going to go

9 ahead and respond to that.

10 Your Honors, the Company is waiving

11 the confidentiality associated with the language

12 that you see here on the data request response.

13 The concern was more about if variables within

14 the cost model, which are proprietary, were to be

15 disclosed, and we would assert that that

16 information is proprietary, but I think for --

17 maybe for purposes of Mr. Phillips' question we

18 have no problem with any follow-up associated

19 with this data request response.

20 JUDGE ALBERS: All right. Thank you.

21 MR. PHILLIPS: And just to be clear,

22 I'm just going to ask a series of questions about

23 the percentages so there won't be any hard

24 numbers, I don't believe.

1 Q. (By Mr. Phillips) Would you like me
2 to repeat the question?

3 A. Please do. Thank you.

4 Q. By all means. Obviously, I'm going
5 to go through A through C here real quick, but
6 the estimated costs for construction can vary
7 from minus 20 to plus 30 percent; is that
8 correct?

9 A. I think that's reasonable, yes, sir.

10 Q. And the cost -- estimated costs for
11 material vary from minus 15 percent to plus 20
12 percent?

13 A. Yes, sir.

14 Q. And estimated costs for land
15 acquisition can vary from minus 30 percent up to
16 plus 50 percent?

17 A. Yes, sir.

18 Q. Okay. Thank you.

19 In your rebuttal testimony, on lines
20 216 to 223 -- let me know when you're there.

21 A. 216 to 223?

22 Q. Yes, sir.

23 A. One minute, please. Yes.

24 Q. And there don't you claim that issues

1 such as visual impacts and impacts to farming
2 operations would be common to any transmission
3 line in the project area?

4 A. Yes, I do.

5 Q. And when you say "common to any
6 transmission line in the project area," you don't
7 mean to say that every potential route will have
8 the exact same visual impact, do you?

9 A. I mean to say that visual impacts and
10 impacts -- visual impacts could be argued about
11 any route in the project area based on an
12 individual's point of view or perspective.

13 Q. Fair enough.

14 However, when you say "common to any
15 project" -- or "common to any transmission line
16 in the project area," would you say that every
17 potential route has the same impact on farming
18 operations?

19 A. Again, I think that, depending on who
20 the farmer might be, they would argue that their
21 farm could be impacted the same way.

22 Q. Fair enough.

23 Sir, I direct you to your surrebuttal
24 testimony, lines 35 to 37.

1 A. Yes, sir.

2 Q. And there you're stating that Ramp's
3 proposed Route A Alt. 1 and Route B Alt. 1
4 modifications are less desirable because of added
5 risks associated with increased pipeline
6 paralleling and proximity to three residences
7 from which Route A was designed to be further
8 away; is that correct?

9 A. Yes. That's what I say, yes, sir.

10 Q. What are the risks associated with
11 increased pipeline paralleling?

12 A. As Mr. Molitor reviewed yesterday,
13 the cost of cathodic protection, and then there's
14 also the potential that there will be more
15 crossings of the pipeline during construction,
16 and those crossings may have requirements from
17 the pipeline to install bridging or some manner
18 that would protect the pipeline from the weight
19 of the vehicles.

20 Q. So what you just listed there -- and
21 maybe the use of the word "risks." By "risks" do
22 you mean cost contingencies or do you mean
23 actually safety risks?

24 A. I imply -- when I say "risks," I

1 generally think of items that would increase the
2 cost or consume contingency on the project. So
3 they would be something that we would want to
4 make sure we cover in our contingency because it
5 might happen, and we would want to be able to
6 support that with the cost estimate.

7 Q. And routes -- ATXI's proposed Routes
8 A and B both have those same risks; isn't that
9 correct?

10 A. They have the risks to paralleling
11 pipelines for shorter distances.

12 Q. And all these risks are included --
13 sorry. Strike that.

14 The costs of studying those risks and
15 implementing proper mitigation measures are built
16 into your cost estimates for all the proposed
17 routes; isn't that correct?

18 A. Yes, they are. Those studies and the
19 mitigation measures are both included in the cost
20 estimate.

21 Q. And you had mentioned before, when we
22 started this line of questioning, the risk
23 associated with the proximity to three residences
24 from which Route A was designed to be further

1 away. You recall that?

2 A. If that's what I said, I didn't mean
3 to. I don't associate a risk to residences as a
4 cost increase.

5 Q. Okay.

6 A. So what my line of testimony is that
7 this modification is less desirable to Route A
8 because of added risks associated with increased
9 pipeline paralleling -- that's one item -- and
10 it's less desirable due to proximity to three
11 residences.

12 Q. Understood. Thank you for clarifying
13 that.

14 Isn't it true that one of those three
15 residences, though, does have Route A crossing
16 its property or just in front of it?

17 A. To a lesser extent than Route B.

18 Q. Both Route B and Route A meet
19 essentially at the end of the driveway to one of
20 those residences, don't they?

21 A. I'm not familiar with that.

22 Q. Fair enough.

23 There's no specific estimate for the
24 yearly operation and maintenance costs for any of

1 the routes proposed in this docket, are there?

2 A. Could you restate the question,

3 please?

4 Q. You haven't considered, say, Route

5 A -- sorry.

6 You have not calculated the yearly

7 costs of maintaining and operating a transmission

8 line, say, if Route A was built, have you?

9 A. For purposes of testimony, no.

10 Q. Okay. And you haven't done so for

11 any of the proposed modifications to any of the

12 routes; isn't that correct?

13 A. For purposes of testimony, again, no.

14 Q. ATXI can span streams when it

15 constructs high voltage transmission lines;

16 correct?

17 A. Yes.

18 Q. Are you familiar, at least generally,

19 with the Zelnio modification and the area that

20 Mr. Charles Zelnio lives?

21 A. Generally, yes, sir.

22 Q. And in that area, there's a rest stop

23 along I-74; isn't that correct?

24 A. If I remember correctly, to the west

1 of Mr. Zelnio's residence, there's a rest stop.

2 Q. And when considering the placement of
3 the transmission line, didn't you rely upon -- or
4 ATXI reply upon Knox County and Peoria County
5 parcel data that simply referred to the rest stop
6 area as interstate right-of-way?

7 A. Can you align me with some testimony
8 in that regard, please?

9 Q. By all means, sir. SP to ATXI 6.04
10 data request response.

11 May I approach, Your Honors?

12 JUDGE ALBERS: Yes.

13 Q. (By Mr. Phillips) Mr. Klein, would
14 you like me to reask the question?

15 A. Please do.

16 Q. By all means. ATXI relied upon Knox
17 County and Peoria County parcel data in
18 determining that the rest stop area was part of
19 the interstate right-of-way; isn't that correct?

20 A. I don't remember which county the
21 rest stop is in, but we relied on that county's
22 parcel data -- be it Knox or Peoria -- to
23 identify the rest area as part of interstate
24 right-of-way.

1 Q. Okay. And -- sorry. One moment.

2 Isn't it true that ATXI has not
3 discussed routing the proposed transmission line
4 with IDOT since August of 2014?

5 A. That's correct.

6 Q. And ATXI has simply assumed that --
7 or sorry. Yeah.

8 ATXI has simply assumed that IDOT has
9 not altered its position on installing structures
10 within an interstate right-of-way since that
11 time?

12 A. I don't know that it's a simple
13 assumption. They provided verbal and written
14 confirmation that they would allow the route to
15 overhang interstate right-of-way. They've not
16 retracted any of those pieces of information
17 since that time. We have no reason to believe
18 that they would have.

19 Q. Do you know why IDOT limits the
20 overhang into interstate right-of-way?

21 A. Do I know -- I'm sorry. Repeat the
22 question.

23 Q. Do you know why IDOT limits the
24 overhang of transmission line poles along their

1 interstate right-of-way?

2 A. I don't know that they do limit it,
3 but I wouldn't know the answer to that question.

4 Q. Fair enough.

5 Mr. Klein, I thank you very much for
6 your time this morning.

7 A. Yes, sir.

8 MR. PHILLIPS: I will not be moving
9 any of the cross -- or any of the data requests
10 in evidence.

11 JUDGE ALBERS: You're not?

12 MR. PHILLIPS: I will not be. Thank
13 you.

14 JUDGE ALBERS: Thank you.

15 Ms. Tomlinson, you can go next.

16 MS. TOMLINSON: Sure. Sure.

17 CROSS-EXAMINATION

18 QUESTIONS BY MS. TOMLINSON:

19 Q. Hello, Mr. Klein. My name is Kellie
20 Tomlinson, and I'm an intervenor along Route A.

21 A. Good morning.

22 Q. Good morning.

23 In your surrebuttal, lines 178 to
24 182, you state that there will be times when

1 complete obstruction to a landowner's driveway
2 does occur. Now, could that complete obstruction
3 last for days? Weeks? Months? How long is it?

4 A. The time of the obstruction would be
5 dependent on the -- for instance, how close the
6 structure is to a driveway and what type of
7 construction activities would be occurring at
8 that location.

9 To your question, I don't know the
10 exact amount of time, but weeks and months does
11 not seem practical to me. I think it would be on
12 the order of number of days at most.

13 Q. Number of days?

14 A. And our construction supervisor will
15 work with any landowner to whom that obstruction
16 would impact to try and coordinate it as best as
17 possible and to minimize it as best as possible
18 if it does occur.

19 Q. So during the times of construction
20 and maintenance when some landowners can be
21 completely obstructed if that landowner -- is
22 that landowner to stay landlocked? I mean,
23 there's going to be instances of that.

24 A. I think, perhaps, I could clarify

1 that I wouldn't expect the complete obstruction
2 to be all day. It would be during -- I expect it
3 would be during certain times of the day. So the
4 coordination would be to those times of day and
5 determine when -- when the landowner needs access
6 so that that can be arranged.

7 Q. Okay. And, then, just to confirm, in
8 your -- in that same testimony, 170, I think you
9 state that no intervenors have raised concerns
10 about Route B in their surrebuttal testimonies;
11 is that correct?

12 A. Help me find it again. I'm sorry.

13 Q. I'm sorry. I think it's on line 170.

14 A. 170.

15 Should I wait to answer until -- or
16 go ahead?

17 JUDGE ALBERS: Go ahead.

18 A. Okay. I'm sorry.

19 I think your question was in regard
20 to line -- my question and answer on lines 170
21 and 171. Could you repeat it? I'm sorry.

22 Q. (By Ms. Tomlinson) I just asked --
23 in your testimony you state that no intervenors
24 have raised concerns about Route B in their

1 surrebuttals; is their correct?

2 A. In their rebuttal testimonies.

3 Q. Rebuttal and surrebuttal?

4 A. I don't think intervenors provided

5 surrebuttal.

6 Q. Oh, I'm sorry. You're correct.

7 No further questions, Your Honor.

8 JUDGE ALBERS: All right.

9 Mr. McMurtry, do you still have questions?

10 MR. MCMURTRY: Sure.

11 CROSS-EXAMINATION

12 QUESTIONS BY MR. MCMURTRY:

13 Q. Hello, Mr. Klein.

14 A. Good morning.

15 Q. In your rebuttal -- I'm going back to

16 what Jonathan started a little bit. In your

17 rebuttal testimony, lines 220 through 222, "I

18 would note that many of the" --

19 A. Give me just a second, if you don't

20 mind. 220 to 222?

21 Q. Yeah.

22 A. Okay. Yes, sir, I'm there.

23 Q. Okay. And the part where you said

24 the visual impacts would be on -- would be common

1 to any transmission line on the project route is
2 where I got the questions for you.

3 A. Okay.

4 Q. Would Route B visually impact the 872
5 residences or people in the Village of Brimfield?

6 A. I honestly don't know. I don't know
7 that it would or wouldn't. They may drive -- you
8 know, they may have residences or family members
9 who live along Route B.

10 Q. Would Route B visually impact the
11 16,800 average daily vehicles on Interstate 74
12 between Brimfield and Kickapoo?

13 A. I guess I probably don't agree with
14 the concept that the drivers along the interstate
15 would be in the visual-impact arena or considered
16 for visual impact that's in my testimony.

17 Q. You don't think they'd see the --

18 A. I think that the number of receptors
19 to the impact aren't the -- aren't what I
20 consider, no. It would be people who live in the
21 area who have residences; and, furthermore, the
22 route does parallel Interstate 74 further west.

23 Q. Okay. Would Route B visually impact
24 the 1,500 average Sunday attendance at the

1 Bethany Baptist Church?

2 A. I suppose that -- if I recall, Route
3 B in that area is parallel to two existing lines
4 that are there today. So I don't know that it
5 would be an added impact.

6 Q. You talk about the two lines. Are
7 they the lines that would be to the east of
8 Bethany or the one line that would be to the
9 south of Bethany?

10 A. I'd need a map. I'm unfortunately
11 not -- not familiar with the directions there.

12 Q. Okay. Would the impacts to farming
13 operations be the same for the 110 parcels on
14 Route B where a six-foot pole foundation could be
15 placed on the field line or section line giving a
16 three-foot farm around as opposed to the 24 miles
17 on Route A that parallels Interstate 74 where a
18 six- to ten-foot foundation and a seven- to
19 ten-foot offset from the interstate right-of-way
20 could be a -- give a 15-foot farm around?

21 A. I think, again, that those -- the
22 argument to farming impacts can be argued about
23 either route. I think that farmers most likely
24 don't want any impact, and Route B has more

1 structures so it's likely to impact more farm
2 fields.

3 Q. Okay. In your rebuttal testimony,
4 lines 244 through 246.

5 A. 244 through 246, yes, sir.

6 Q. "Further, it is unlikely that a
7 holistic change from ATXI's estimated foundation
8 costs, which is not expected, would be limited to
9 the angle structures, as Mr. McMurtry asserts --
10 appears to assert." That's your statement more
11 or less there.

12 Do you assert that the holistic
13 change from ATXI's estimated costs would not be
14 limited to the angle structures?

15 A. I don't know that I do assert that in
16 testimony. For the estimated costs of
17 foundations, we use average foundation sizes for
18 each of the structure types. Furthermore, we
19 calculated a contingency to include the
20 possibility that the foundations could or would
21 be larger.

22 But I think that your -- if I
23 understand, further back in testimony -- my
24 testimony, it's responding to your concern that

1 angle structures -- the foundations for angle
2 structures might be underestimated whereas I
3 think that it is unlikely that that's the case.

4 Q. Okay. But it wouldn't be just
5 limited to the angle structures?

6 A. What wouldn't be?

7 Q. Increase in cost.

8 A. I think that our cost estimates are
9 true and accurate. I don't think that there will
10 be a holistic change to any foundation costs.

11 Q. Could the 60 percent more steep
12 slopes on Route A add to the estimated costs?

13 A. Again, when developing the cost
14 estimates for things like difficult terrain or
15 steep slopes -- I consider the same as difficult
16 terrain -- we included crane matting and access
17 development. And, then, on top of the direct
18 components, we added contingency.

19 So if those steep slopes, assuming
20 that they're at the location of structures,
21 impact the access to those structures, I feel
22 we've captured that adequately either in the
23 direct components or, worst case, in the
24 contingency.

1 Q. Okay. In your direct testimony on
2 page 10 of 13.

3 A. I'm at the page 10 of 13.

4 Q. Oh, yes. The whole page.

5 A. Okay.

6 Q. "How was the transmission line cost
7 determined?"

8 Your response to WM ATXI 4.01 --

9 A. I don't have a copy of that. I don't
10 know if you do.

11 MR. MCMURTRY: Can I approach?

12 JUDGE ALBERS: Yeah.

13 A. Just to be clear, you were asking
14 about 4.01?

15 Q. (By Mr. McMurtry) Yeah.

16 A. Okay. I'm there. Yes.

17 Q. Indicates that an asymmetrical
18 probable distribution was used to calculate the
19 cost.

20 A. To calculate -- let me back up. The
21 contingency was calculated using a number of
22 different input criteria. So, for instance, the
23 number of tangent structures was varied. The
24 number of crane mats, as I discussed earlier, was

1 varied. Each of those components had an input
2 criteria, a low and a high and a mid, and it may
3 or may not have been a symmetrical input
4 criteria.

5 So, to your question, as I think I
6 understand it, is the inputs to calculate the
7 contingency were not all symmetrical. I'm not
8 sure any of them were. Thus the output was not
9 symmetrical.

10 Q. Well, I must have missed that on page
11 10 there where -- where you call for this
12 asymmetrical probable distribution. Is it on
13 page 10 where you figure the cost?

14 A. Can you ask me the question again? I
15 got lost.

16 Q. Okay. On page 10 there, your -- the
17 question was "How was the transmission line cost
18 determined?"

19 A. Yes.

20 Q. And that's your answer there on page
21 10?

22 A. Yes.

23 Q. Okay. Nowhere on page 10 did I see
24 any reference to this asymmetrical probable

1 distribution.

2 A. Nor will you find a reference to
3 symmetrical. I think that -- that was a -- I
4 considered at the time, perhaps, too much detail
5 to provide in the response. The response states
6 that a Monte Carlo simulation risk-based
7 contingency analysis model was used to derive the
8 range of probable contingency costs, and that is
9 true and accurate.

10 Q. In the response -- I had two cross
11 exhibits yesterday that gave the expected cost
12 range for Route A as 87.2 million to 96.6
13 million. I don't know if you recall.

14 A. Do I have them here?

15 Q. Pardon?

16 A. I have them here?

17 Q. Oh, okay.

18 A. No, I'm asking. I'm sorry.

19 MR. FITZHENRY: I'm sorry. Which
20 data request are you referring -- or if you are
21 referring to a data request, which one, please?

22 MR. MCMURTRY: It was in response to
23 WM ATXI 3.6 -- 3.06. I'm sorry. And that was my
24 Cross Exhibit 1.

1 Q. (By Mr. McMurtry) Okay. The
2 expected cost range for A is 87.2 to 96.6
3 million, and this gives an arithmetic mean
4 \$200,000 less than the 92.1 million Route A
5 revised cost -- revised estimated cost. Would
6 that be correct?

7 A. So I think what you're asking me on
8 WM ATXI 3.06 is does -- I think you're asking me
9 to provide the arithmetic mean of 87.2 million
10 and 96.6 million?

11 Q. Yes.

12 A. And you -- I don't have that in front
13 of me. So I think you're telling me --

14 Q. Well, it comes out that that -- that
15 is 200,000 less than the Route A revised cost
16 estimate.

17 A. Let me -- I think my best response I
18 can provide here without the calculator in front
19 of me is that taking the arithmetic mean or the
20 simple middle point between these two numbers is
21 not -- is not an accurate way to determine the
22 mean when using the @Risk model as I mentioned
23 earlier with asymmetrical inputs.

24 Q. Okay. But the point I was trying to

1 make is -- I guess is that the -- for Route A,
2 that comes up with an arithmetic mean of 200,000
3 less, and if you do the same thing to Route, B it
4 comes up with an arithmetic mean that's
5 \$1,750,000 more than the Route B estimated cost,
6 and I -- I'm having a hard time getting my head
7 around a \$1,950,000 imbalance in the two.

8 A. Well, again, I think that
9 unfortunately the @Risk model we use is a little
10 more complex than just taking the arithmetic mean
11 on any given --

12 Q. I guess.

13 A. -- on any given route. The mean is
14 the most likely outcome of the variety of inputs
15 that are fluctuated through the model through the
16 Monte Carlo analysis. So the model does not
17 output a symmetrical curve such as the mean is in
18 the middle. It varies depending on the inputs
19 depending on the route.

20 So, for instance, Route B being
21 longer, it may have shifted the mean higher or
22 lower. It depends --

23 Q. Yeah, a lot higher.

24 A. -- on the inputs. But in this case,

1 it would make sense to me that it would be higher
2 because there are more structures, there are more
3 length -- is more length.

4 Q. Okay. I'm still lost, but that's all
5 the questions I have.

6 A. Thank you.

7 JUDGE ALBERS: Thank you.

8 Do you have any redirect?

9 MR. FITZHENRY: Could we have a few
10 minutes, Your Honor?

11 JUDGE ALBERS: Sure.

12 MR. FITZHENRY: Thank you.

13 (Short recess.)

14 JUDGE ALBERS: Mr. Fitzhenry, before
15 you conduct any redirect, I neglected to ask my
16 co-ALJ if she had any questions, and she does.

17 MR. FITZHENRY: She does? Darn -- I
18 mean, please.

19 A. Sorry, Your Honor.

20 JUDGE VON QUALEN: That's fine.

21 EXAMINATION

22 QUESTIONS BY JUDGE VON QUALEN:

23 Q. I have, I think, just one question,
24 and that is what inputs differed in the two cost

1 analyses between Route A and Route B?

2 A. Thank you for asking that question
3 because it's -- I should clarify. The inputs
4 didn't differ. The outputs differed. And that's
5 because we varied, for instance, the number of
6 tangent structures. We -- the model -- let me
7 back up just a little bit. What the Monte Carol
8 analysis does is it says the structures, the
9 inputs, may increase or decrease by a certain
10 amount based on our range of allowable max and
11 min. So what -- what the model is doing is
12 selecting randomly the different outputs and it
13 ultimately picks a mean.

14 So since, for instance, the angle
15 structures are known, at least based on the
16 routing analysis, and we made an assumption on
17 tangent structures for span length, we concluded
18 that we should allow the model to increase and
19 decrease the tangent structures in order to
20 calculate some contingency in case that span
21 length was shorter then 850 feet on average or,
22 in other words, there were more tangent
23 structures.

24 So, for Route B, since it has a much

1 higher number of tangent structures, it does not
2 surprise me that the model would calculate a
3 higher incremental amount of tangent structures
4 because it would assume then that that average
5 span length was less than 850 feet over that
6 entire distance, which is that many more
7 tangents.

8 Does that help clarify or make it
9 worse?

10 Q. A little more complicated, I think,
11 than where I was going.

12 A. I'm sorry.

13 Q. You said that there would be more
14 tangent structures on Route B, and that's really
15 my question. What was your starting point for
16 Route A cost analysis, your starting point for
17 Route B cost analysis? What differed in the two
18 of them? I assume the length of the line
19 differed. So some things must have differed, but
20 I don't know --

21 A. Oh, sure. I'm sorry. I didn't --
22 should have asked for clarification.

23 So, for the direct cost, the
24 differences would be easement acquisition.

1 There's more easements to acquire simply due to
2 the length but also due to the lack of what I'll
3 phrase as sharing with IDOT easements. So the
4 length impacts the easements.

5 There will be more structures.
6 Forget the type of structures, but total number
7 of structures would be higher. So the cost of
8 construction would be higher with those
9 additional structures because there are more of
10 them. More access roads to get to those
11 structures.

12 There are several different
13 components that are based on the length of the
14 routes such as the length of conductor or wire,
15 the length of shield wire.

16 Does that help?

17 Q. Yes. What I understood is the only
18 real difference in the starting point was the
19 length of the route and then the effect on these
20 various costs of the length.

21 A. Well, we -- Mr. Koch's -- or HDR put
22 the routes into their GIS system, and they
23 determined where the angle structures would most
24 likely occur due to the bends in the route. So

1 the starting point did include the difference
2 between those angle structures for Route A, the
3 type and quantity, and Route B.

4 Clearing was determined, again, by
5 the output from the routing analysis. So the
6 amount of vegetation that would have to be
7 cleared on each route would be different based on
8 the amount of forested area.

9 The type and quantity of easements.
10 So I mentioned earlier just the quantity, and I
11 should speak that we also analyze the different
12 types along the different routes. So those were
13 starting point differences.

14 I'm going down this in my mind here.

15 Q. That's fine.

16 A. So bear with me. I'm probably
17 missing something, but that's a fairly good
18 summarization.

19 Q. Thank you.

20 A. You're welcome.

21 JUDGE VON QUALEN: Thank you.

22 MR. FITZHENRY: The Company just has
23 some brief redirect.

24 REDIRECT EXAMINATION

1 QUESTIONS BY MR. FITZHENRY:

2 Q. Mr. Klein, do you recall questions
3 from Mr. Phillips about IDOT's rules or
4 preferences regarding overhang and right-of-way?

5 A. I do.

6 Q. And you answered him a number of
7 times in reference to overhang. What do you
8 understand to be -- what is included in overhang
9 in the context of Mr. Phillips' questions?

10 A. Well, as I understand it, Mr.
11 Phillips was asking if we could overhang IDOT
12 right-of-way, and when I -- when I hear or say
13 "overhang," I think with the wires or the
14 structure arms could, in fact, be in the air over
15 the right-of-way. That does not mean that
16 structures could be installed on the IDOT
17 right-of-way.

18 Q. Thank you, Mr. Klein.

19 That's all I have.

20 JUDGE ALBERS: Okay. Any recross on
21 that?

22 MR. PHILLIPS: None, Your Honors.

23 No.

24 JUDGE ALBERS: Any objection, then,

1 to Mr. Klein's testimony?

2 Oh, I'm sorry.

3 MR. MCMURTRY: Do I have an

4 opportunity --

5 JUDGE ALBERS: Well, it would be tied

6 to Mr. Fitzhenry's redirect.

7 MR. MCMURTRY: Oh, it wouldn't be

8 anything to Your Honor's questions?

9 JUDGE ALBERS: Yeah. Generally, you

10 know, once he gets his chance at redirect,

11 anybody who has questions -- anybody who wants to

12 ask a question about the redirect can then

13 recross on the redirect. Does that make sense?

14 MR. MCMURTRY: No, but I'm good.

15 JUDGE ALBERS: Okay. All right.

16 All right. Hearing no objection,

17 then, to the testimony, then ATXI Exhibits 4.0,

18 4.1 through 4.3, 12.0, 19.0, and 19.1 are

19 admitted.

20 MR. FITZHENRY: Thank you, Your

21 Honor.

22 JUDGE ALBERS: Thank you, Mr. Klein.

23 MR. KLEIN: Thank you.

24 JUDGE ALBERS: Our next witness is

1 Mr. Randall Moon.

2 JUDGE VAN QUALEN: Good morning, Mr.

3 Moon.

4 You were previously sworn in?

5 MR. MOON: Yes.

6 JUDGE VAN QUALEN: Please state your

7 name.

8 MR. MOON: Randall Moon.

9 JUDGE VON QUALEN: Did you provide

10 testimony in this case?

11 MR. MOON: Yes.

12 JUDGE VON QUALEN: And what was

13 the -- how did you identify it and what was the

14 date that you filed it? Do you recall?

15 MR. PHILLIPS: Your Honor, if I may,

16 I represent Mr. Moon's group. I can go through

17 it pretty quickly.

18 JUDGE VON QUALEN: Oh, please do.

19 MR. PHILLIPS: No problem. If you

20 want to do it, that's fine.

21 JUDGE VON QUALEN: No, I don't.

22 RANDALL MOON,

23 of lawful age, having been produced, sworn, and

24 examined on behalf of Intervenors, testified as

1 follows:

2 DIRECT EXAMINATION

3 QUESTIONS BY MR. PHILLIPS:

4 Q. Mr. Moon, are you the same Mr. Moon
5 who submitted direct testimony labeled Randall
6 Moon Exhibit 1.0?

7 A. Yes.

8 Q. And do you have that testimony in
9 front of you here today?

10 A. Yes.

11 Q. Does it consist of a cover page and a
12 total of 11 pages of question and answers?

13 A. Yes. Actually, it's 12 pages.

14 Q. It's 12 pages. Sorry about that.
15 The cover page was counted as 1, I believe.

16 But a 12-page document then?

17 A. Yes.

18 Q. And these 12 pages of questions and
19 answers -- were they prepared at your direction
20 or by yourself?

21 A. Yes.

22 Q. And are the answers in there true and
23 correct?

24 A. Yes.

1 Q. Do they remain true and correct
2 today?

3 A. Yes.

4 Q. Along with that direct testimony,
5 Mr. Moon, did you submit Randy Moon Exhibit 1.01?

6 A. Yes.

7 Q. And is that a Sesquicentennial Farm
8 Program Certificate?

9 A. Yes.

10 Q. And was that attached to your direct
11 testimony under your direction or supervision?

12 A. Yes.

13 Q. Thank you, Mr. Moon.

14 Do you also have before you what is
15 titled the Direct Need Testimony of Randy Moon?

16 A. Yes.

17 Q. And it's marked as Randall Moon
18 Exhibit 1.0N?

19 A. Yes. That's correct.

20 Q. And it's a three-page document
21 consisting of a cover page and two pages of
22 question and answer?

23 A. Correct.

24 Q. And are all the -- when you -- were

1 those questions and answers prepared at your
2 direction or under your supervision?

3 A. Yes.

4 Q. When they were prepared, were they
5 true and correct answers to those questions?

6 A. Yes.

7 Q. They remain so today?

8 A. Well, the need issues -- based upon
9 the test -- you know, subsequent testimony, these
10 need issues, Rockrohr changed his position based
11 upon data that Schatzki run, I believe.

12 Q. Okay. Fair enough. But when you
13 reference Mr. Rockrohr's testimony, you're
14 referencing testimony that they didn't go back
15 and change officially.

16 So, with that in mind, are these
17 answers what you wish to answer the Commission
18 today or --

19 A. Yes.

20 Q. Okay. Thank you.

21 And both of those were filed in
22 December of 2014?

23 A. Yes.

24 Q. And do you have before you the

1 rebuttal testimony of Randall Moon?

2 A. Correct.

3 Q. Is it marked as Randall Moon Exhibit

4 2.0?

5 A. Yes, it is.

6 Q. Does it consist of -- it is a

7 six-page document consisting of a cover page and

8 five pages of question and answer?

9 A. Yes.

10 Q. And are all those answers true and

11 accurate today?

12 A. Yes.

13 Q. And were those prepared under your

14 direction or supervision?

15 A. Yes.

16 Q. And all of these documents we just

17 discussed -- did you cause them to be filed on

18 e-Docket?

19 A. Yes.

20 Q. Okay.

21 With that, Your Honors, I think I've

22 established sufficient foundation to move these

23 into evidence, of course, after cross.

24 JUDGE VON QUALEN: I'll defer ruling

1 on it until after cross.

2 MS. CONGER: We prefer to go last, if
3 anyone else has questions.

4 MR. WILKE: Actually, we're going to
5 waive our cross, and I think Mr. Shipley is also.

6 JUDGE VON QUALEN: Is that right?

7 MR. SHIPLEY: Yes.

8 JUDGE VON QUALEN: So you're last.

9 MS. CONGER: All right. No
10 questions.

11 JUDGE VON QUALEN: No questions?

12 All right, then. Are there any
13 objections to Randall Moon Exhibit 1.0, 1.01,
14 1.0N, and Exhibit 2?

15 (No response.)

16 JUDGE VON QUALEN: Hearing none,
17 those exhibits are entered into evidence.

18 Thank you, Mr. Moon.

19 MR. MOON: Thank you.

20 MR. SHIPLEY: Your Honor, may I enter
21 my testimony into evidence?

22 JUDGE VON QUALEN: Did you want to
23 put on Mr. Gerald Moon, first, or is there an
24 emergency you need to leave?

1 MR. SHIPLEY: No. No.

2 MR. PHILLIPS: That's fine, Your

3 Honor. I just --

4 MR. SHIPLEY: I was just told to do

5 it in between witnesses.

6 JUDGE VON QUALEN: Oh, okay.

7 MR. PHILLIPS: For what it's worth,

8 Mr. Ramp is expected here shortly. So if he

9 wants to go ahead and do this now, we can save

10 time or make more time before Mr. Ramp gets here.

11 JUDGE VON QUALEN: Was Gerald Moon

12 going to testify?

13 MR. PHILLIPS: Yes. He's here as

14 well. We can go ahead and do him first.

15 Mr. Moon, would you like to take the

16 stand?

17 JUDGE VON QUALEN: Mr. Moon, you were

18 previously sworn in as well as?

19 MR. MOON: Correct.

20 GERALD R. MOON,

21 of lawful age, having been produced, sworn, and

22 examined on behalf of Intervenor, testified as

23 follows:

24 DIRECT EXAMINATION

1 QUESTIONS BY MR. PHILLIPS:

2 Q. Good morning, Mr. Moon.

3 Can you give your full name.

4 A. Gerald Rodger Moon.

5 Q. And you go by Rodger?

6 A. Yes.

7 Q. Okay. And, sir, do you have before

8 you the direct testimony of Gerald R. Moon, which

9 is a five-page document?

10 A. I do.

11 Q. And does it consist of a cover page

12 and four pages of questions and answers?

13 A. Yes.

14 Q. Do you have any corrections to any of

15 the questions or answers in this document?

16 A. No, no correction. I do have one

17 correction.

18 Q. Sorry. If I could refer you to line

19 22 of your questions and answers.

20 A. Correct. Apparently my math was

21 wrong. We have 600 acres, not 700 acres as it

22 says in my testimony.

23 COURT REPORTER: I'm sorry, sir. I

24 can't hear you.

1 MR. MOON: I made -- we own 600 acres
2 rather than 700 acres. If my testimony says 700,
3 I want to change it to 600.

4 MR. PHILLIPS: And, Your Honors, I'd
5 be happy to submit new testimony with that number
6 change, but I thought it minor enough we could
7 enter it perhaps without having to do so.

8 JUDGE VON QUALEN: That's fine.

9 MR. PHILLIPS: Okay. Thank you.

10 Q. (By Mr. Phillips) Other than that
11 correction, sir, are the questions and answers in
12 here correct?

13 A. They are.

14 Q. And were they prepared at your
15 supervision or direction?

16 A. They were.

17 Q. Okay. And along with that, do you
18 have a series of four pictures that have been
19 marked as Gerald Moon Exhibit 1.01?

20 A. I do.

21 Q. And did you take those pictures?

22 A. I did.

23 Q. And do they fairly and accurately
24 represent what you're taking a picture of?

1 A. They do.

2 Q. Okay. And, finally, sir, did you
3 also submit a document called Gerald Moon Exhibit
4 1.02, which is a petition? The first page --

5 A. I did the petition, yes.

6 Q. And consists of 17 pages, many of
7 all -- 16 of which contain a series of
8 signatures, printed names, addresses, and phone
9 numbers?

10 A. I did.

11 Q. And were those -- was that petition
12 prepared at your super -- under your supervision?

13 A. They were.

14 Q. Okay. Did you cause this document to
15 be filed on e-Docket in December of 2014?

16 A. I did.

17 Q. Okay. Do you also have before you,
18 sir, the rebuttal testimony of Gerald R. Moon?

19 A. I do.

20 Q. And does it consist of -- is it a
21 three-page document consisting of a coverage page
22 and two pages of questions and answers?

23 A. Yes.

24 Q. And those two pages of question and

1 answers -- were they prepared at your direction
2 or under your supervision?

3 A. They were.

4 Q. And are the answers there correct?

5 A. They are.

6 Q. And you caused that to be filed on
7 e-Docket as well?

8 A. I did.

9 MR. PHILLIPS: With that, Your Honor,
10 I have no further questions. I believe I've laid
11 a foundation -- of course, after any
12 cross-examination -- for moving them into
13 evidence.

14 JUDGE VON QUALEN: Who wishes to
15 cross-examine Mr. Moon?

16 MR. WILKE: We'll waive ours.

17 JUDGE VON QUALEN: Nobody does?

18 MS. CONGER: No.

19 JUDGE VON QUALEN: All right, then.

20 Are there any objections to Gerald R.
21 Moon Exhibits 1.0, 1.01, 1.02, or 2.0?

22 (No response.)

23 JUDGE VON QUALEN: Hearing none,
24 those exhibits are entered into evidence.

1 Thank you, Mr. Moon.

2 MR. MOON: Thank you, Your Honor.

3 JUDGE VON QUALEN: Mr. Shipley, would
4 you like to testify now?

5 MR. SHIPLEY: Yes, Your Honor. I
6 would like to --

7 JUDGE ALBERS: Mr. Shipley, if you
8 want to take the stand, since you're actually the
9 witness.

10 MR. SHIPLEY: I didn't know.

11 JUDGE ALBERS: That's all right.

12 MR. SHIPLEY: I wasn't sworn in.

13 JUDGE VON QUALEN: You were not?

14 JUDGE ALBERS: Were you sworn in
15 earlier?

16 MR. SHIPLEY: I did not stand and say
17 that as I didn't know I was going to be on the
18 stand.

19 JUDGE ALBERS: Okay. Yeah, both
20 of you, I guess, because you both offered
21 testimony -- you and your wife?

22 MR. SHIPLEY: Oh, yeah, just
23 testimony -- yes.

24 JUDGE ALBERS: Didn't your wife have

1 testimony as well?

2 MR. SHIPLEY: Yes.

3 JUDGE ALBERS: Okay. If you both

4 want to stand and --

5 MS. SHIPLEY: We did file separately.

6 MR. SHIPLEY: Yeah. Okay.

7 (Mr. and Ms. Shipley

8 were duly sworn.)

9 JUDGE ALBERS: All right. Thank you.

10 Would you like me to walk you through

11 the --

12 MR. SHIPLEY: As much as you could,

13 please.

14 JUDGE ALBERS: Okay.

15 MATTHEW SHIPLEY,

16 of lawful age, having been produced, sworn, and

17 examined on behalf of himself, testified as

18 follows:

19 DIRECT EXAMINATION

20 QUESTIONS BY JUDGE ALBERS:

21 Q. All right. Mr. Shipley, could you

22 please state your name for the record.

23 A. Matthew S. Shipley.

24 Q. And on or about December 15, 2014,

1 did you submit prepared direct testimony in this
2 matter?

3 A. I did.

4 Q. And does that testimony consist of
5 two pages?

6 A. It is.

7 Q. And if you were asked the same
8 questions today, would you change any of your
9 answers?

10 A. Correct. Yes, I would not change any
11 answers.

12 Q. Okay. Is it your intention to have
13 this testimony admitted into the record today?

14 A. It is.

15 Q. And this testimony is true and
16 correct to the best of your knowledge?

17 A. It is.

18 Q. All right. Thank you.

19 I don't think anybody had any
20 questions for Mr. Shipley; is that correct?

21 (No response.)

22 JUDGE ALBERS: Okay. Is there any
23 objection, then, to Mr. Shipley's testimony? And
24 we can call that Shipley Exhibit 1.

1 (No response.)

2 JUDGE ALBERS: Hearing no objections,
3 then, Shipley Exhibit 1 is admitted.

4 Thank you, Mr. Shipley.

5 MR. SHIPLEY: Thank you.

6 JUDGE ALBERS: Mrs. Shipley.

7 JANET SHIPLEY,

8 of lawful age, having been produced, sworn, and
9 examined on behalf of herself, testified as
10 follows:

11 DIRECT EXAMINATION

12 QUESTIONS BY JUDGE ALBERS:

13 Q. Mrs. Shipley, you were previously
14 sworn this morning?

15 A. Yes, I was.

16 Q. All right. Could you please state
17 your name for the record.

18 A. Janet L. Shipley.

19 Q. And on December 15 of 2014, did you
20 submit -- on or about that date, rather, did you
21 submit prepared direct testimony in this matter?

22 A. Yes, I did.

23 Q. And does it consist of two pages?

24 A. Yes, it does.

1 Q. And if asked the same questions
2 today, would you give the same answers?

3 A. Yes.

4 Q. And is everything in there true and
5 correct to the best of your knowledge?

6 A. It is.

7 Q. And is it your desire that this be
8 admitted into the record today?

9 A. Yes.

10 JUDGE ALBERS: Is there any
11 objection, then, to the admission of her
12 testimony?

13 (No response.)

14 JUDGE ALBERS: I don't believe anyone
15 had any questions for Mrs. Shipley.

16 So with that, we'll call this Shipley
17 Exhibit 2, and it is admitted into the record.
18 Thank you.

19 MR. PHILLIPS: Your Honors, I don't
20 believe Mr. Ramp was sworn in before.

21 JUDGE ALBERS: Okay. Mr. Ramp, would
22 you raise your right hand, please.

23 (Mr. Ramp was duly sworn.)

24 JUDGE ALBERS: Thank you, sir.

1 STEVEN RAMP,
2 of lawful age, having been produced, sworn, and
3 examined on behalf of Intervenors, testified as
4 follows:

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. PHILLIPS:

7 Q. Good morning, Mr. Ramp.

8 Could you please provide the
9 Commission your full name.

10 A. Steven J. Ramp.

11 Q. And, Mr. Ramp, do you have before you
12 the direct testimony of Steven Ramp revised?

13 A. Yes.

14 Q. Which is a -- and is that an
15 eight-page document consisting of a cover page
16 and seven pages of questions and answers?

17 A. Correct.

18 Q. Are those answers true and correct to
19 the best of your knowledge?

20 A. Yes.

21 Q. And were they prepared at your
22 direction or under your supervision?

23 A. Yes.

24 Q. And did you cause that to be filed on

1 e-Docket on or about December 15, 2014?

2 A. Yes.

3 Q. Along with that, about that same
4 time, did you submit Ramp Exhibit 1.01, which is
5 a two-page document which appears to be the
6 response of ATXI to Staff Engineering data
7 request 1.05?

8 A. Yes.

9 Q. And along with that, sir, did you
10 prepare, under your supervision or direction, a
11 document that's been labeled as Ramp Exhibit
12 1.02?

13 A. Yes.

14 Q. And is that a tract map with certain
15 notations?

16 A. A plat map, yes.

17 Q. Thank you.

18 And, again, Mr. Ramp, have you
19 prepared or had prepared, under your supervision
20 or direction, a document called Ramp Exhibit
21 1.03, a four-page document appearing to show
22 modifications to the proposed routes?

23 A. Yes.

24 Q. Sorry. Proposed modifications?

1 A. Yes.

2 Q. And was that prepared at your
3 supervision or under your direction?

4 A. Yes.

5 Q. And did you cause all these to be
6 filed on e-Docket?

7 A. Yes.

8 Q. Do you also have before you, sir,
9 Ramp Exhibit 2.0 Revised, the rebuttal testimony
10 of Steven Ramp revised?

11 A. Yes.

12 Q. Does it consist of seven pages, which
13 is a cover page and six pages of questions and
14 answers?

15 A. Yes.

16 Q. And those questions and answers --
17 are they true -- are the answers correct today?

18 A. Yes.

19 Q. And along with that, did you cause to
20 be prepared Ramp Exhibit 2.01 Revised?

21 A. Yes.

22 Q. And to be clear, you did not cause
23 the Ameren Transmission map to be created. You
24 just notated one?

1 A. Yes, I just notated on their map,
2 yes.

3 Q. Okay. Fair enough.

4 And did you cause that to be
5 submitted on e-Docket?

6 A. Yes.

7 MR. PHILLIPS: I believe that, Your
8 Honors, I've established sufficient foundation.

9 I believe I may have mixed up a date
10 because there was revised testimony. If I may
11 have a moment to grab my exhibit list to get
12 those dates straight.

13 For the record, the 1.0 Revised was
14 filed on May 12th, while as 1.01 through 1.03
15 were all filed on December 15th of 2014. The 2.0
16 Revised and 2.1 Revised were both filed on May
17 17, 2014. Sorry. That cannot be correct.
18 That's supposed to be May 11, 2014. My
19 apologies.

20 And with that, I --

21 JUDGE VON QUALEN: 2015.

22 MR. PHILLIPS: Yes. 2015. It's just
23 a big mess. Sorry about that.

24 JUDGE VON QUALEN: It's nothing that

1 I haven't done myself.

2 MR. PHILLIPS: With that, I'd submit

3 Mr. Ramp to cross-examination.

4 JUDGE ALBERS: You folks had time

5 reserved.

6 MR. WILKE: We'll waive for, Mr.

7 Ramp.

8 JUDGE ALBERS: Okay.

9 Mr. Shipley, Mrs. Shipley, did you

10 have any questions?

11 MRS. SHIPLEY: Yes, I do.

12 JUDGE ALBERS: Okay. Why don't you

13 come closer to one of the microphones so --

14 CROSS-EXAMINATION

15 QUESTIONS BY MS. SHIPLEY:

16 Q. Good morning. I'm Janet Shipley.

17 A. Good morning, Janet.

18 Q. My questions will use the testimony

19 of Steven Ramp and his alternative routes

20 described in Ramp Exhibit 1.0 Revised and the map

21 referred to as Ramp Exhibit 2.01 Revised.

22 Do you have the map?

23 A. Could you state those maps again?

24 That was in direct, you say? Or in --

1 Q. The map is 2.01 Revised.

2 A. Was that in rebuttal or direct?

3 Q. I'm not sure. I have a copy.

4 JUDGE ALBERS: It was rebuttal.

5 MR. PHILLIPS: For what it's worth,

6 Mr. Ramp, I believe it would be the last page of

7 your --

8 A. 2.01 Revised. Okay. All right.

9 COURT REPORTER: I'm sorry. You just

10 said it was what?

11 MR. PHILLIPS: I was just letting

12 Mr. Ramp know that it is the last page in his

13 packet of testimony he has up there.

14 Q. (By Ms. Shipley) Okay. Matt Shipley

15 and Janet Shipley want it noted that the Route B

16 Alternative 1 would avoid four homes along the

17 frontage road. This includes our home.

18 Do you agree with the Shipleys that

19 the Alternative 1 would be the best route to

20 avoid homes and tillable farm ground in the area

21 of the Shipley residence and Wild Rose Farms?

22 A. Both -- both the Route B Alternate 1

23 and Route A Alternate 1 would avoid the four

24 homes and diminish the amount of farm ground

1 taken.

2 Q. Thank you.

3 In lines 126, 127 of your testimony,
4 Ramp Exhibit 1.0, you state, quote, "I developed
5 an alternative route that follows property
6 lines," end quote, and, quote, "uses less farm
7 ground," end quote; correct?

8 A. Correct.

9 Q. In lines 131, 132 of your testimony,
10 you state your alternative route, quote, "stays
11 further from residences by following property
12 boundaries and minimizing the impact on farm
13 ground," end quote; correct?

14 A. Correct.

15 Q. But in your Route A Alternative 2,
16 the eastern end point of your modification marked
17 A-2 is located right in the middle of Shipleys'
18 approximately four-acre hay plot, not on any
19 existing property line, isn't it?

20 A. I'm not familiar with your property
21 line. The Route A Alternate 2 follows Ameren's
22 Route B

23 Q. In order to save the very limited
24 amount of tillable ground available on the

1 Shipleys' property, shouldn't that A-2 end point
2 be moved west in order to place it on an existing
3 property line?

4 A. The reason for my A-2 reference on
5 the map is -- is stating that, from A-1 to A-2,
6 that less tillable farm ground is used and is
7 further from residences and is a shorter route.
8 That is my reason for A-2 marking.

9 Q. From my view of the map at A-2, ATXI
10 has not made any moves north or south. A-2 was
11 added by you.

12 A. Right. A-2 is on Route B's line.

13 Q. Okay.

14 A. It's just a reference point up to
15 your residence.

16 Q. Okay. Do you agree that the three
17 homes east of your end point A-2 on Route B are
18 closer to the proposed line than any of the homes
19 located along the corresponding section of Route
20 A?

21 A. Could you restate that, please.

22 Q. Sure. Do you agree that the three
23 homes east of your end point A-2 on Route B are
24 closer to the proposed line than any of the homes

1 located along the corresponding section of Route
2 A?

3 A. I would agree that two of them are.
4 The third home where Route A and Route B come
5 together is virtually the same.

6 Q. Your testimony and map depicting
7 Alternative 2 documents fewer homes impacted
8 between point A-1 at the western end where Route
9 A and Route B diverge to point A-2 just west of
10 the Shipley residence; correct?

11 A. Correct.

12 Q. However, do you acknowledge that east
13 of point A-2 there are three homes located within
14 520 feet of the expressway fence that will be
15 adversely affected if your Alternative 2
16 modification does not include a jog to the south
17 side of the expressway?

18 A. Yes.

19 Q. Since you stated in your testimony --
20 lines 131, 132 -- that one benefit of your
21 alternative routing was to be further from
22 residences, do you agree ATXI should also avoid
23 those homes east of point A-2?

24 A. Yes.

1 Q. Thank you.

2 No further questions.

3 JUDGE ALBERS: Okay. Does ATXI still

4 have questions?

5 MS. SEGAL: Yeah, we have just a

6 handful.

7 JUDGE ALBERS: Go ahead. That's

8 fine.

9 CROSS-EXAMINATION

10 QUESTIONS BY MS. SEGAL:

11 Q. Good morning, Mr. Ramp.

12 A. Good morning.

13 Q. Thank you for being here today. My

14 name is Rebecca Segal, and I'm counsel for ATXI.

15 I just wanted to follow up on some

16 questions Ms. Shipley asked specifically

17 regarding your Ramp Exhibit 2.0 Revised.

18 A. Okay.

19 Q. This map does not show all of your

20 proposed route modifications, does it?

21 A. No. The jog south of the interstate

22 to avoid the Shipley residence is not marked on

23 there.

24 Q. Okay. And in your testimony, you

1 referred to that modification as a simple jog?

2 A. Yes.

3 Q. And when you say "simple," you just

4 mean it's just a hitch that crosses back and

5 forth across I-74?

6 A. Yes.

7 Q. Okay. I have what I have marked ATXI

8 Ramp Cross Exhibit 1. It is data request

9 response ATXI SR 3.06 Attached 1. I'd like to

10 show this to you.

11 A. Okay.

12 Q. Do you recognize this document?

13 A. Yes, I do.

14 Q. As with your Ramp Exhibit 2.01

15 Revised map, did you also mark on this document

16 what is your simple jog?

17 A. Yes.

18 Q. And so this accurately represents

19 your proposal?

20 A. Yes.

21 MS. SEGAL: Your Honors, I would move

22 for admission of ATXI Ramp Cross Exhibit 1.

23 JUDGE ALBERS: Is there any

24 objection?

1 (No response.)

2 JUDGE ALBERS: Hearing none, then,
3 the cross exhibit is admitted.

4 MS. SEGAL: Thank you, Mr. Ramp.
5 That's all I have.

6 JUDGE ALBERS: I don't think anyone
7 else had any questions of him, but I have just a
8 couple clarifying questions.

9 EXAMINATION

10 QUESTIONS BY JUDGE ALBERS:

11 Q. Mr. Ramp, could you refer to your
12 Exhibit 1.03 attached to your direct testimony.

13 A. Okay.

14 Q. With regard to your revision on
15 ATXI's route on this page, does the portion from
16 point A to point C run alongside a road?

17 A. No. That's a property line.

18 Q. Okay. And then I have the same
19 question with regard to the point -- the portion
20 between points C and D.

21 A. Yes.

22 Q. Also a property line?

23 A. For part of it, not all of it.

24 Q. Okay. So is part of the -- is part

1 of that length of line there a road?

2 A. No.

3 Q. Okay.

4 A. It crosses a road, but it's not.

5 Q. Okay.

6 A. By the plat book -- by the plat book,
7 there is a property line, but the farm ground
8 that it crosses, the same person farms both
9 sides. So I don't consider that a property line.

10 Q. Okay. I understand what you're
11 saying.

12 A. But it's not a road, no.

13 Q. So other than crossing a road from
14 time to time, does any part of your proposed
15 route on this page run alongside a road?

16 A. No.

17 Q. Okay. And then with regard to point
18 B on that page, what does that represent?

19 A. Point B is a -- there's a lane that
20 comes down from the north, and at B there is two
21 structures located right on the property line
22 there. And the bump there is proposals to get
23 around those -- to get around the structures.

24 Q. Okay. So you propose that the line

1 actually deviate from a straight line and go
2 around?

3 A. I believe my testimony states that it
4 could angle up into that farm ground and then
5 back to avoid the structures, or they're -- I
6 believe -- I don't own the structures, but
7 they're old structures, and it could be that they
8 could be moved or demolished.

9 Q. Are they just barns or sheds?

10 A. They are barns. One -- without going
11 on the property, one is an open front shed and
12 the other is an enclosed metal shed.

13 Q. Okay.

14 A. Whether they're used for storage, I
15 don't know. They could be empty. I don't know.

16 Q. So they're not residences?

17 A. No residence at that area, no.

18 Q. All right.

19 All right. Thank you. That's all I
20 had.

21 Do you have any redirect?

22 MR. PHILLIPS: If I may, Your Honors,
23 it will be brief.

24 REDIRECT EXAMINATION

1 QUESTIONS BY MR. PHILLIPS:

2 Q. Mr. Ramp, you propose -- I guess now
3 that we have the jog in evidence now, there's
4 sort of four modifications that you propose at
5 this point, and there's the Alt. 1 family, if you
6 will, which is what's represented on Ramp Exhibit
7 1.03, and then there's the Alt. 2, which is the
8 one that is just a mixing of ATXI's routes A and
9 B; is that correct?

10 A. Yes.

11 Q. Okay. Of those two families of
12 modifications, Alt. 1 and Alt. 2, which do you
13 prefer?

14 A. Alt. 1.

15 Q. Okay. And just to make sure we
16 understand 1.03 here, nowhere from point A to
17 point E does your proposed modification follow a
18 road; isn't that correct?

19 A. Correct.

20 Q. And to the best of your knowledge,
21 from what you've consulted, does it follow
22 property lines?

23 A. Yes.

24 Q. However, between point C and D there

1 is, in fact, a property line that, since a farmer
2 owns it, they farm all of it so there's no grassy
3 area in between?

4 A. I believe there are some grassy
5 areas, but not for the entire distance, no.

6 Q. Okay. Have you measured the length
7 of that field from north to south or approximated
8 it?

9 A. Approximated it, yes.

10 Q. Is it less than 850 feet north to
11 south?

12 A. To the grassy areas so that prime
13 farm ground could be avoided, yes.

14 Q. Okay. And isn't it -- is it true
15 that from points A to E that -- excepting that
16 final pole placement hasn't been determined yet,
17 there's the ability to place poles in grassy
18 areas rather than tilled areas throughout that
19 route?

20 A. Yes.

21 Q. Okay. And then just one more
22 question. Sorry.

23 And that includes the area around
24 that bump or deviation at Route B; isn't that

1 correct?

2 A. Yes.

3 Q. And then my final question is why did
4 you choose to utilize property lines instead of
5 roadways?

6 A. By using the property line, the pole
7 can be placed in non-tillable areas, and also
8 it's a lesser chance to disrupt farming
9 practices.

10 Q. Thank you.

11 I don't have any further questions.

12 JUDGE ALBERS: Does anyone have any
13 recross on that redirect?

14 Okay.

15 MS. SHIPLEY: Can I recross on the
16 new map that was passed out, the Ramp Cross?

17 JUDGE ALBERS: Yes. I'm just kind of
18 wondering how far your -- the scope of your
19 questions would be. That's why I'm hesitating,
20 but we'll hear it.

21 RECROSS EXAMINATION

22 QUESTIONS BY MS. SHIPLEY:

23 Q. All right. Looking at the new Ramp
24 Cross 1 map and referring back to lines 126, 127

1 and 131, 132 where you discuss following property
2 lines and property boundaries to minimize the
3 impact on farm ground. This map does have the
4 actual line in red, and on the south side of the
5 interstate the line appears to be on a property
6 line. When it crosses to the north side, it
7 lands right in the middle of the Shipley hay
8 field as opposed to being a little further west
9 and landing on a property line. Should that be
10 moved to land on a property line?

11 A. This is how I came upon the jog:
12 First -- my first point of reference is on the
13 south side of the interstate, the boundary line.
14 So I'm in that corner. What I did from there was
15 take the scale at the bottom of the map and angle
16 back in each direction 800 feet. And so 800 feet
17 to the east lines you right back up with Route A
18 and Route B and back to the west puts it back on
19 Route B. To go clear to the boundary line would
20 be much further than 800 feet. I'm open to that,
21 but I don't know if it can be done. I'm just
22 going by what Ameren referenced as being the
23 distance between poles.

24 Q. Okay. Thank you.

1 JUDGE ALBERS: Okay.

2 MR. PHILLIPS: I have nothing, Your
3 Honor.

4 JUDGE ALBERS: Is there any
5 objection, then, to Mr. Ramp's testimony and
6 exhibits?

7 (No response.)

8 JUDGE ALBERS: Hearing none, then,
9 Ramp Exhibit 1.0 Revised, 1.01, 1.02, 1.03, 2.0
10 Revised, and 2.01 Revised are admitted.

11 Thank you, Mr. Ramp.

12 JUDGE VON QUALEN: We'll take a short
13 break now, and let's come back to the hearing
14 room at 11:00 o'clock.

15 (Short recess.)

16 JUDGE VON QUALEN: Back on the
17 record.

18 Ms. Tomlinson?

19 MS. TOMLINSON: Yes.

20 JUDGE VON QUALEN: You were
21 previously sworn in?

22 MS. TOMLINSON: Yes, ma'am.

23 KELLIE TOMLINSON,
24 of lawful age, having been produced, sworn, and

1 examined on behalf of herself, testified as
2 follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY JUDGE VON QUALEN:

5 Q. Please state your name for the
6 record.

7 A. My name is Kellie Tomlinson.

8 Q. Did you provide testimony in this
9 docket?

10 A. I sure did. I did.

11 My testimony is -- testimony of
12 Kellie Tomlinson is marked Revised Direct
13 Testimony 1R for revised, and that was filed in
14 the e-Docket on May 11th.

15 And then I have Exhibits 2 through
16 12. It's from my original submission. And it
17 was filed in e-Docket December 15th.

18 And then I have my rebuttal
19 testimony, Tomlinson Exhibit 17, and it was filed
20 April 7th.

21 And then my Exhibits 18 through 22
22 were my original submission. They were filed
23 April 7th also.

24 Q. And did you prepare that testimony

1 yourself?

2 A. Yes, I did, Your Honor.

3 Q. Is it true and correct to the best of

4 your knowledge?

5 A. Yes, it is.

6 Q. Do you have any changes you'd like to

7 make to it today?

8 A. No.

9 Q. Sorry. We're making sure we have the

10 correct records here.

11 Ms. Tomlinson, is there a

12 Tomlinson -- are there Tomlinson Exhibits 13

13 through 16?

14 A. I'm sorry. I don't -- I'm not sure

15 what -- what the dates are on those.

16 Q. But there are?

17 A. Yes, I believe there are. That's

18 correct.

19 Q. But you don't recall if you filed

20 them on December 15th or on May 11th?

21 A. No, ma'am, I do not.

22 Q. Okay.

23 MR. STURTEVANT: Your Honor, if I

24 may, I think that those exhibits were actually

1 attached -- they were entitled exhibits but were
2 actually attached to data responses that would
3 not be part of the direct or rebuttal testimony
4 exhibits.

5 Q. (By Judge Von Qualen) Does that
6 sound correct to you?

7 A. It sounds -- I didn't have it. So I
8 had a hard time figuring that it was a part of
9 the exhibit or my testimony. I'm sorry.

10 Q. All right. That's fine.

11 And do you have any changes you would
12 like to make to your exhibits?

13 A. I just have the revised that I've
14 already sent in. That's my only change.

15 Q. And would you like those exhibits
16 entered into evidence?

17 A. Please, Your Honor.

18 JUDGE VON QUALEN: All right. I'll
19 defer ruling on that until the cross-examination.

20 MR. STURTEVANT: We do not have any
21 cross, Your Honor.

22 JUDGE VON QUALEN: Does anyone else
23 have any cross for Ms. Tomlinson?

24 (No response.)

1 JUDGE VON QUALEN: Does anyone have
2 any objections to Ms. Tomlinson's testimony,
3 Tomlinson 1R, Tomlinson 2 through 12, Tomlinson
4 Exhibit 17, and Tomlinson Exhibits 18 through 22?

5 MR. STURTEVANT: Your Honor, I would
6 just note, with respect to Exhibit 8, as a data
7 response to which ATXI provided an objection, all
8 that's included is the request and the objection.
9 I think, under normal circumstances, we would
10 object to the admission of that since there's no
11 actual response as part of it but, under the
12 circumstances, would defer to Your Honors'
13 preferences.

14 MS. TOMLINSON: Could you tell me
15 what data request that is? I mean, what was I
16 asking?

17 MR. STURTEVANT: It's KT ATXI 1.07
18 was your Exhibit 8.

19 JUDGE VON QUALEN: As I understand
20 it, you're saying that there was no substantive
21 response?

22 MR. STURTEVANT: Correct. It's just
23 an objection.

24 JUDGE VON QUALEN: All right, then.

1 We'll just give that exhibit the weight that it's
2 due, and Ms. Tomlinson's exhibits are entered
3 into evidence.

4 Thank you.

5 MS. TOMLINSON: So that will be
6 entered into the --

7 JUDGE VON QUALEN: Yes.

8 MS. TOMLINSON: Thank you very much.

9 JUDGE VON QUALEN: Mr. McMurtry.

10 WILLIAM MCMURTRY,
11 of lawful age, having been produced, sworn, and
12 examined on behalf of himself, testified as
13 follows:

14 DIRECT EXAMINATION

15 QUESTIONS BY JUDGE VON QUALEN:

16 Q. Please state your name for the
17 record.

18 A. William McMurtry.

19 Q. Mr. McMurtry, did you provide
20 testimony in this proceeding?

21 A. Yes, I did.

22 Q. And can you tell me what testimony
23 you provided?

24 A. Direct -- revised direct testimony,

1 McMurtry Exhibit 1R, and that was on e-Docket on
2 May 11th.

3 And then there was Exhibits 2 through
4 9, and that was on the original submission on the
5 e-Docket on December 15th.

6 And then there was a revised rebuttal
7 testimony of McMurtry, Exhibit 30, and that's
8 revised, and that was on e-Docket on May 11th.

9 And there was also Exhibits 16
10 through 29 on the original submission on e-Docket
11 April 7th.

12 And I don't know if -- I did have a
13 motion to admit a letter from Brimfield on the
14 e-Docket on April 27, 2015. I don't know if
15 that's the time to mention that or not.

16 Q. Did you have any exhibits that were
17 numbered 10 through 15?

18 A. Well, I'm sure I did.

19 MR. STURTEVANT: Your Honor, I think
20 it's the same situation. I believe those were
21 included with data request responses, not the
22 testimony.

23 Q. (By Judge Von Qualen) All right,
24 then.

1 I don't see them in your testimony.
2 So do you recall if that is correct, Mr.
3 McMurtry?
4 A. Yeah, I guess.
5 MR. STURTEVANT: Yeah, I believe
6 that's correct. 10 through 15 were with data
7 requests.
8 Q. (By Judge Von Qualen) Is the
9 information in the documents that you filed in
10 this case true and correct to the best of your
11 knowledge?
12 A. Yes, they were.
13 Q. And if I were to ask you those
14 questions today, would your answers be the same?
15 A. Yes.
16 Q. Are you asking for those exhibits to
17 be entered into evidence?
18 A. Yes, I would like them to be.
19 JUDGE VON QUALEN: Is there any
20 cross-examination for Mr. McMurtry?
21 MR. STURTEVANT: Briefly, Your Honor.
22 CROSS-EXAMINATION
23 QUESTIONS BY MR. STURTEVANT:
24 Q. Good morning, Mr. McMurtry.

1 A. Good morning.

2 Q. My name is Bert Sturtevant. I'm
3 counsel for ATXI.

4 You've indicated in testimony that
5 you participate in a Forest Redevelopment Act
6 program; is that right?

7 A. That's right.

8 Q. And you've also indicated in
9 testimony or data responses that, if Route A is
10 chosen, it's your belief that you won't have
11 enough forested acres to continue to participate
12 in the Forest Redevelopment Act; is that right?

13 A. Yeah, depending on how much -- how
14 big the right-of-way taken is.

15 Q. Okay. And regarding your direct
16 testimony, at paragraph 12, if you have that
17 there --

18 A. Yeah.

19 Q. -- you indicate that your parcel in
20 the future could be subdivided into lots;
21 correct?

22 A. Yes.

23 Q. And it is your plan, when you sell
24 your property and move to town, to develop it for

1 residential use; is that right?

2 A. Yes, I could. Yeah.

3 Q. In fact, you've stated in a data
4 request that you would like to develop the
5 property for residential use once you sell it and
6 move; correct?

7 A. Yeah. When I get too old to run the
8 farm and move to town, that would -- yeah.

9 Q. Okay. If the property were to be
10 developed for residential use as you've indicated
11 you would like, most of the forested area on your
12 property would need to be cleared; is that
13 correct?

14 A. I'd leave that up to the property
15 owner or whoever bought the lots or whatever.
16 When I -- when I moved there, there was trees all
17 over, and I -- I just cut enough for the house;
18 so --

19 I'm not sure I'm answering the
20 question.

21 Q. Well, if the property -- let's ask it
22 this way: If the property was subdivided into a
23 series of lots, there would have to be tree
24 clearing on all of those lots to accommodate new

1 houses for residential development; right?

2 A. I wouldn't want to clear the trees
3 for -- for -- before I sold the lots. I'd just
4 have it subdivided, but I don't -- I think I'd
5 leave the tree clearing to whoever bought the
6 lot.

7 Q. Right. I guess that's what I'm
8 asking. After somebody buys the lot and wants to
9 build a house, they would perform some tree
10 clearing on your property; right?

11 A. Oh, yeah. Probably. If they wanted
12 to.

13 Q. And if the property is subdivided and
14 developed for residential use as you plan after
15 you sell it, it would no longer be part of the
16 Forest Redevelopment Act program; is that right?

17 A. Oh, yes. Sure. No.

18 Q. Okay.

19 That's all the questions I have.

20 Thank you.

21 JUDGE VON QUALEN: Are there any
22 objections to Mr. McMurtry's exhibits?

23 MR. STURTEVANT: Your Honor, I would
24 note the same issue with regards to Mr.

1 McMurtry's Exhibits 4 and 6 in that they are data
2 requests and only the objections, no substantive
3 response, and just bring that to your attention
4 in light of your previous ruling.

5 JUDGE VON QUALEN: Thank you.

6 MR. PHILLIPS: Your Honors, the only
7 thing I'd bring up, I think Mr. McMurtry
8 mentioned a motion to have a letter from
9 Brimfield admitted. I can't remember if there
10 was a ruling on that before or not.

11 MR. WILKE: There was.

12 JUDGE VON QUALEN: There has not been
13 a ruling. Are there any objections to that?

14 We granted the motion. The letter is
15 in the record, but it hasn't been ruled on as far
16 as it is in for the purpose of evidence.

17 MR. PHILLIPS: Fair enough. Thank
18 you.

19 JUDGE VON QUALEN: Are there any
20 objections?

21 (No response.)

22 JUDGE VON QUALEN: Hearing none --

23 MR. STURTEVANT: No objection.

24 JUDGE VON QUALEN: Hearing none,

1 we'll identify the letter as Exhibit 31, McMurtry
2 Exhibit 31, and Mr. McMurtry's exhibits are
3 entered into evidence.

4 Thank you.

5 MR. MCMURTRY: Thank you.

6 JUDGE ALBERS: We have one more
7 witness.

8 Pronounce his name for me.

9 Matthew --

10 MS. SEGAL: Koch.

11 JUDGE ALBERS: Koch? All right.

12 MS. SEGAL: ATXI would like to call
13 Mr. Matthew Koch.

14 JUDGE ALBERS: Mr. Koch, you were
15 sworn in earlier?

16 MR. KOCH: I was.

17 JUDGE ALBERS: All right. Thank you.

18 MATTHEW KOCH,
19 of lawful age, having been produced, sworn, and
20 examined on behalf of the Company, testified as
21 follows:

22 DIRECT EXAMINATION

23 QUESTIONS BY MS. SEGAL:

24 Q. Good morning, Mr. Koch.

1 A. Good morning.

2 Q. Can you state your full name and
3 business address for the record, please.

4 A. Matthew Koch. That's K-o-c-h. The
5 address is 30 North LaSalle, Suite 3220, Chicago,
6 Illinois 60602.

7 Q. And by whom are you employed?

8 A. HDR Engineering.

9 Q. And what is your position with HDR
10 Engineering?

11 A. I'm a project manager.

12 Q. Mr. Koch, I have before me what's
13 been marked ATXI Exhibit 8.0 Revised, the revised
14 direct testimony of Matthew Koch, dated May 11,
15 2015, and supporting exhibits 8.1, 8.2 Revised,
16 8.3 to 8.4. Do you have those in front of you?

17 A. I do.

18 Q. Were these prepared by you or under
19 your direct supervision?

20 A. They were.

21 Q. And if I asked you the same questions
22 contained within today, would your answers be the
23 same?

24 A. They would.

1 Q. And is the information contained in
2 these true and accurate to the best of your
3 knowledge and belief?

4 A. They are.

5 Q. And, Mr. Koch, do you have in front
6 of you what's been marked ATXI Exhibit 16.0, the
7 rebuttal testimony of Matthew Koch, dated March
8 5, 2015, and accompanying exhibits 16.1 to 16.4?

9 A. I do.

10 Q. And were these prepared by you or
11 under your direct supervision?

12 A. They were.

13 Q. And if I were to ask you the same
14 questions contained therein today, would your
15 answers remain the same?

16 A. They would.

17 Q. And is the information contained in
18 these true and accurate -- true and correct to
19 the best of your knowledge and belief?

20 A. They are.

21 Q. And do you have in front of you
22 what's been marked ATXI Exhibit 22.0, the
23 surrebuttal of Matthew Koch, dated April 21,
24 2015?

1 A. I do.

2 Q. And with that, accompanying exhibits
3 ATXI Exhibit 21 -- or pardon me -- 22.1 to 22.2,
4 and 22.3, both confidential and public versions?

5 A. I do.

6 Q. And I note that you also attached
7 ATXI Exhibit 16.4 to your surrebuttal just for a
8 visual aid.

9 A. Yes.

10 Q. Okay. And was this testimony and
11 exhibits prepared by you or under your direct
12 supervision?

13 A. They were.

14 Q. And if I were to ask you the same
15 questions contained therein today, would your
16 answers remain the same?

17 A. They would.

18 Q. And is the information contained in
19 this testimony and supporting exhibits true and
20 accurate to the best of your knowledge and
21 belief?

22 A. They are.

23 MS. SEGAL: Your Honors, I would move
24 for admission and tender -- let me run through

1 this list.

2 I would move for admission of ATXI
3 Exhibit 8.0 Revised, the revised direct testimony
4 of Matthew Koch; ATXI Exhibit 8.1, 8.2 Revised,
5 8.3 to 8.4, 16.0, 16.1 through 16.4, 22.0, 22.1
6 through 22.2, and ATXI Exhibit 22.3, both the
7 confidential and public versions.

8 JUDGE ALBERS: Very well. We'll rule
9 on the admissibility following any
10 cross-examination.

11 Does anyone have any questions for
12 Mr. Koch?

13 MR. WILKE: I do. I can go first.

14 CROSS-EXAMINATION

15 QUESTIONS BY MR. WILKE:

16 Q. Mr. Koch, I'm Kurt Wilke on behalf of
17 CARB.

18 I want to ask you some questions
19 about your routing study which is Exhibit 8.2;
20 correct?

21 A. Yes.

22 Q. And I'd like you to turn first to
23 some meeting notes of a meeting you had with the
24 Illinois Historic Preservation Agency, which is

1 at Exhibit 8.2, Appendix M, page -- pages 9 and
2 10.

3 A. Okay.

4 MR. WILKE: I have copies if anybody
5 needs to look at these.

6 Q. (By Mr. Wilke) Do you have that in
7 front of you?

8 A. I do.

9 Q. And under Discussion, the third
10 bullet point there, you state that ATXI's
11 preferred route that follows the interstate is
12 preliminarily IHPA's preferred route. Do you see
13 that?

14 A. I see that.

15 Q. To your knowledge, has IHPA ever
16 modified or changed their stated preference?

17 A. Not to my knowledge.

18 Q. Next, if you'd turn to page 32 of
19 your routing study. That would be Exhibit 8.2,
20 part 2, page 11.

21 A. Sorry. Part 2. What page?

22 Q. Page 11.

23 A. Okay.

24 Q. You see there Section 3.6.3,

1 Selection of the Preferred Route?

2 A. I do.

3 Q. In selecting Route A as the preferred
4 route, you state, in quotes, "Although Route B
5 has fewer residences within 300 to 500 feet than
6 Route A, the majority of residences along Route A
7 are located along the I-74 corridor, of which
8 almost half are closer to the interstate than
9 they are to Route A."

10 And question: Why is that
11 significant in the selection of the preferred
12 route?

13 A. It's significant in the sense that
14 there is an existing corridor that is between
15 the -- where Route A is and where the residences
16 are. So there's already an existing corridor
17 that's been impacted.

18 Q. Okay. You would agree, would you
19 not, that with regard to residences there may not
20 be a direct relationship between distance from
21 the transmission line and a perceived impact?

22 A. I would agree that a perceived impact
23 is typically specific to a location. So the
24 location of that residence in relation to the

1 route and the features that may be between it.

2 Q. Next, if you turn to page 21 of your
3 routing study. So that would be Exhibit 8.2
4 again, part 1, page 24.

5 A. Part 1. Page what?

6 Q. 24.

7 A. Okay.

8 Q. And in the second to last paragraph
9 there, you note there is one private airstrip
10 within one mile of the routes; correct?

11 A. That is correct.

12 Q. And the route that that airstrip is
13 near would be Route B; correct?

14 A. It doesn't state that in that
15 paragraph right there, but that is correct.

16 Q. I'd like to have you identify that
17 airstrip on your detailed route maps, if you can.
18 If you would turn to Appendix B of the routing
19 study, part 7, pages 2 and 3.

20 A. Okay.

21 Q. You have those. And can you confirm
22 that on pages 2 and 3, which are pages 35 and 36
23 of your detailed route maps, that the airport in
24 question is identified as Sisk RLA?

1 A. That is correct.

2 JUDGE VON QUALEN: Could you hold on

3 a second while we identify the map that you

4 referred to. Would you tell us again?

5 JUDGE ALBERS: I got it. I just

6 found it.

7 Q. (By Mr. Wilke) Do you know what

8 "RLA" stands for?

9 A. Restricted landing area or airstrip

10 is my recollection.

11 Q. And while we're looking at this map,

12 page 35, the first page, you see that diagonal

13 segment there just north of the airstrip?

14 A. Yes. See one there in Section 9.

15 Q. Yes. You would agree, would you not,

16 that that segment is a less desirable routing

17 option than the segment to the north that runs

18 along the center section line of Section 9?

19 A. Can you clarify what you mean by

20 "less desirable"?

21 Q. In terms of a routing preference, it

22 is preferable to route along a center section

23 line than to run diagonally across the middle of

24 a farm field.

1 A. Which strictly talking about
2 potential impacts to farming operations, I would
3 agree, but not necessarily from an entire --
4 looking at all routing the criteria, I wouldn't
5 necessarily have to agree with that.

6 Q. I'd like to show you a chart that has
7 been marked as ATXI Exhibit 7.5. I have a copy
8 of that for you because you probably don't have
9 that with you.

10 This is an exhibit that was attached
11 to, I believe, Mr. Nelson's testimony, and it --
12 it defines four types of segments. Do you see
13 that?

14 A. I do.

15 Q. And are you familiar with those four
16 types of segments?

17 A. I am.

18 Q. And the diagonal that we were just
19 referring to on page 35 of the detailed routing
20 maps, that diagonal segment, that would be
21 categorized as a no paralleling cross-country
22 segment, would it not?

23 A. That's correct.

24 Q. And can you confirm from Exhibit 7.5

1 that Route B has almost double the amount of no
2 paralleling cross-country segments as Route A.

3 A. I think it's fair to say almost
4 double, yeah.

5 Q. If you could turn next to page 28 of
6 your routing study. That would be Exhibit 8.2,
7 part 2, page 7.

8 A. Okay.

9 Q. And you see the last paragraph there
10 entitled State Threatened and Endangered Species?

11 A. I do.

12 Q. And it states that there is a known
13 occurrence of a state threatened or endangered
14 species within one-half mile of Route B; is that
15 correct?

16 A. That's what it states.

17 Q. And you've identified the location of
18 this occurrence as along the Rock Island State
19 Trail Park; correct?

20 A. That's correct.

21 Q. And can you confirm the area you are
22 talking about is shown on your detailed route
23 maps at pages 32 and 35. So that would be
24 Exhibit 8.2, Appendix B, part 6, pages 5 and 6.

1 A. Those pages show the location of the
2 Rock Island State Trail and Greenway. It does
3 not show the specific location of the known
4 occurrence.

5 Q. Okay. Do you have any information
6 about the specific location of the known
7 occurrence?

8 A. We do have that. It's confidential
9 information subject to license agreement with the
10 DNR.

11 Q. So what -- but what you've -- at
12 least what you've put into evidence is that it is
13 somewhere along the State Trail Park?

14 A. That's correct.

15 Q. And these two maps that we've just
16 identified -- Exhibit 8.2, Appendix B, part 6,
17 pages 5 and 6 -- they show, do they not, that
18 Route B directly abuts the Rock Island State
19 Trail Park for over two miles?

20 A. I don't have an easy way to measure
21 the exact distance here, but looking at the map,
22 it's around that length.

23 MR. STURTEVANT: I'm sorry, Mr.
24 Wilke. What page of the maps are we looking at

1 here?

2 MR. WILKE: On pages 32 and 33.

3 Q. (By Mr. Wilke) And your routing
4 study reflects that you discussed this threatened
5 squirrel with the Illinois Department of Natural
6 Resources; is that right?

7 A. That is correct.

8 Q. If you would turn next to Appendix M,
9 pages 3 through 5.

10 A. Okay.

11 Q. And that is your meeting notes from
12 the meeting with the IDNR, Department of Natural
13 Resources?

14 A. That's correct.

15 Q. Bottom of the second page there, page
16 4, last bullet point. You refer to that
17 squirrel, and you use the term "most significant
18 potential impact." Do you see that?

19 A. Sir, can you repeat which one of the
20 pages of the meeting notes that was?

21 Q. So that is on Appendix M, page 4.

22 A. Okay.

23 Q. Bottom of the page, last bullet
24 point. And it states, in quotes, "Most

1 significant potential impact - Franklin's ground
2 squirrel," close quotes.

3 A. That's what it states.

4 Q. Are those your words or are those --
5 is that what DNR told you -- that this was the
6 most significant potential impact?

7 A. I don't recall whose words those were
8 exactly.

9 Q. And you see the very bottom line on
10 that page states "IDNR recommends construction
11 take place outside of the months when the
12 Franklin ground squirrel is active."

13 A. That's what they recommended at that
14 meeting.

15 Q. And the notes also reflect when that
16 active time period is; correct?

17 A. Yes. States they're active from
18 April to July.

19 Q. To your knowledge, has IDNR ever
20 modified or changed that recommendation?

21 A. Not to my knowledge.

22 Q. And, then, lastly, if you would,
23 could you turn to Table 1 of your routing study
24 which is Exhibit 8.2, part 1, page 8.

1 A. Okay.

2 Q. And the known occurrence of the

3 Franklin ground squirrel would be included as a

4 sensitivity under the heading Sensitive Habitat,

5 Critical Habitat, and Protected Species; is that

6 right?

7 A. That is correct.

8 Q. And the Rock Island State Trail Park

9 would be included as a sensitivity under Cultural

10 Resources since that includes trails; is that

11 correct?

12 A. Give me one moment. I would probably

13 be more likely to classify that as a recreational

14 area less so than a cultural resources

15 sensitivity.

16 Q. So where would that be on your --

17 A. It would be the second column, and it

18 would be, looks like, the seventh down from the

19 top.

20 Q. I see. Okay. Great.

21 Thanks. That's all I have.

22 JUDGE ALBERS: Mr. Phillips.

23 MR. PHILLIPS: Thank you, Your

24 Honors.

1 CROSS-EXAMINATION

2 QUESTIONS BY MR. PHILLIP:

3 Q. Good morning, Mr. Koch.

4 A. Good morning.

5 Q. I'm Jonathan Phillips. I represent a
6 series of landowners, some of whom have proposed
7 route modifications.

8 Mr. Koch, your work professionally
9 has been exclusively for utilities, hasn't it?

10 A. I wouldn't say exclusively. I've had
11 other small projects, but it's primarily.

12 Q. Okay. Are you familiar with Ramp's
13 proposed Route A Alt. 2 modification?

14 A. I'm familiar with it in that it's a
15 piece of ATXI's Route B.

16 Q. Okay. So it is fair to say it's a
17 mixture, if you will, of Route A and Route B just
18 to stay along the north side of I-74?

19 A. Yes.

20 Q. And are you familiar with the jog
21 that Mr. Ramp has proposed to avoid either -- and
22 I think it might be a dispute -- two or three
23 residences by skipping south of Interstate 74?

24 A. I'm familiar with it.

1 Q. In your rebuttal testimony, do you
2 point out that in making that jog it crosses
3 Interstate 74 twice?

4 A. Can you point me to that location?

5 Q. By all means. It would be your
6 rebuttal testimony, lines 374 to 376.

7 A. I say that "The jog he proposes would
8 require" --

9 COURT REPORTER: I'm sorry, sir. Can
10 you start over?

11 A. Yes. "The jog that he proposes would
12 require additional angle structures and two
13 crossings of Interstate 74 in less than one-half
14 mile."

15 Q. (By Mr. Phillips) Okay. Route A
16 crosses Interstate 74 twice, does it not?

17 A. It does.

18 Q. Okay.

19 A. Well, twice -- sorry. Let me
20 clarify. Twice in that location.

21 Q. Fair enough. Thank you very much for
22 that clarification.

23 I refer you to your direct testimony,
24 line 272.

1 A. Okay.

2 Q. And there you identify that Route A
3 became the preferred route after the Phase 1
4 meetings; is that correct?

5 The Phase 1 talk would be just above
6 it.

7 A. You said line 272?

8 Q. Sorry. I guess if you want to start
9 at 236 where it says, during Phase 1 open houses,
10 there were route suggestion or modifications
11 made.

12 A. Yes.

13 Q. And then there's -- next question was
14 "What is the next step in the process?" So that
15 would presumably be after the Phase 1 meetings;
16 is that correct? Whatever the next steps that
17 were taken were.

18 A. Yeah. And that's -- this section is
19 pertaining to what the next step in the route
20 selection process was after the Phase 1 meetings.

21 Q. Okay. I guess I'm trying to nail
22 down did Route A become the preferred route after
23 the Phase 1 meetings or was it the preferred
24 route beforehand?

1 A. Give me one moment.

2 Q. Not a problem.

3 A. Yeah, it was the preferred route at
4 the Phase 2 meetings.

5 Q. Okay. And so, since the time that it
6 became the preferred route, there have been
7 modifications to that route that have been
8 proposed and accepted by ATXI; is that correct?

9 A. I think you're asking, after Phase 2
10 and prior to ATX filing its Route A, its
11 preferred route, were any changes made? Is that
12 what you're asking?

13 Q. Yes.

14 A. There were some minor changes, and I
15 believe they're discussed in here.

16 Q. Okay. Thank you.

17 Route A utilizes -- ATXI's Route A
18 utilizes the Interstate 74 corridor to a greater
19 extent than Route B. Is that fair?

20 A. That's fair.

21 Q. And isn't it true that the
22 utilization of the Interstate 74 corridor will
23 require the poles for the transmission line to be
24 placed seven to ten feet or more from the edge of

1 the IDOT right-of-way?

2 A. I think it's fair to say that we
3 intend generally to -- for the poles -- ATXI
4 anticipates that the poles will be placed seven
5 to ten feet from interstate right-of-way.

6 Q. Okay. And in doing so, if there's a
7 tilled area immediately adjacent to the IDOT
8 right-of-way, that would require the placement of
9 the poles in the tilled area; is that correct?

10 A. Yeah, I believe. I mean, if -- if it
11 was being cultivated or tilled next to the I-74
12 right-of-way and we're not putting our structures
13 in the interstate right-of-way, that would
14 require them to be placed in cultivated land.

15 Q. And isn't it true that, when Ameren
16 or ATXI utilizes field or property lines, it has
17 the occasion, even though final pole placement is
18 not in place, to be able to place a pole in an
19 untilled area much of the time?

20 A. There may be, along field lines, a
21 chance to minimize impacts to the tilled land,
22 but my understanding and view of looking at field
23 lines -- they don't tend to be the width of our
24 transmission poles. So I don't think it's fair

1 to say that there wouldn't be any placement of
2 the poles in tilled land. It may just be less so
3 for field lines.

4 Q. Okay. Fair enough.

5 And just to make sure it's clear, are
6 you essentially saying that a -- perhaps a grassy
7 strip along field lines may not be as wide as the
8 foundation?

9 A. That -- I'm saying that's possible.

10 Q. Okay. ATXI has not secured any
11 permits from the Illinois Department of
12 Transportation at this time, has it?

13 A. Not permits. There's been
14 discussions.

15 Q. And you're aware that some portions
16 of Interstate 74 have forested or wooded areas
17 adjacent to the right-of-way of IDOT?

18 A. Yes.

19 Q. And you stated, in your surrebuttal
20 testimony, that not all of the forest will be
21 cleared between the interstate and agricultural
22 areas beyond the forest?

23 A. Can you point me to where it states
24 that?

1 Q. If I may have just a moment. I'm not
2 sure why I didn't have that one cited.

3 I'd refer you to your surrebuttal
4 testimony, lines 220 through 223.

5 A. Yes. It states that "In many of the
6 forested areas along I-74, not all of the forest
7 will be cleared between the interstate and the
8 agricultural areas beyond the forest, and will
9 not expose the driver to a view of the
10 agricultural areas, as he indicates."

11 Q. But isn't it true that a majority of
12 the wooded areas along I-74 between Galesburg and
13 Peoria will, in fact, have all the forest cleared
14 between the interstate and agricultural areas
15 beyond the forest?

16 And if you'd like, I can refer you to
17 data request response SP to ATXI 7.17.

18 A. Yes. I appreciate that.

19 MR. PHILLIPS: May I approach, Your
20 Honors?

21 JUDGE ALBERS: Yes.

22 Q. (By Mr. Phillips) And please let me
23 know, after you review that, if you need me to
24 repeat the question.

1 A. Yeah, if you could repeat the
2 question, it would be appreciated.

3 Q. Isn't it true that a majority of the
4 wooded areas along Interstate 74 between
5 Galesburg and Peoria will, in fact, have all of
6 the forest cleared between the interstate and
7 agricultural areas beyond the forest?

8 A. It states there would be 50 -- well,
9 states that there will be 48 percent would have
10 it remaining. So 52 percent would have it
11 cleared.

12 Q. Okay. Thank you.

13 Do you remember answering a series of
14 data requests about a potential route that was
15 called the RR Route early in this docket?

16 A. I remember an RR Route being the
17 subject of at least one data request.

18 Q. Okay. And by all means, if you do
19 need any data requests, let me know. But when
20 asked to identify sensitivities along the RR
21 Route, did you list residences between 500 and
22 1,000 feet?

23 A. Yeah, you're going to have to -- if
24 you could show me that, that would be great.

1 Q. Fair enough.

2 A. Can you repeat the question?

3 Q. No problem. So when you were asked
4 this data request or asked the question of
5 identifying sensitivities along a certain
6 proposed route, didn't you identify a greater
7 impact to residences within 500 to 1,000 feet?

8 A. I identified many, which included
9 residences within 300 to 500 feet as well as 500
10 to 1,000 feet.

11 Q. Okay. And isn't it true that there
12 may not be a direct relationship between distance
13 from a transmission line and a perceived impact?

14 I'm sorry. I'm no longer using that,
15 just so you're not looking on there for it.

16 A. Can you repeat that again?

17 Q. No problem. Isn't it true that there
18 may not be a direct relationship between distance
19 from a transmission line and a perceived impact
20 to a residence?

21 A. I would say generally, as distance
22 increases, the perceived impact would decrease.
23 However, the perceived impact can vary on a
24 location-by-location basis, as I stated earlier,

1 depending on the location of the transmission
2 line relative to a residence or receptor and what
3 sort of topography or vegetation may be screening
4 that viewshed in between it.

5 Q. Is it fair to say, though, that you
6 accord more emphasis to a residence that is in
7 closer proximity to the center line of a proposed
8 route if all other variables are the same?

9 A. Can you define "more emphasis"?

10 Q. Well, for what it's worth, these are
11 your words. I'd be happy to show you a data
12 request response.

13 A. Yeah. That would be great.

14 Q. And I direct you to the second page
15 of this, which is your response to SP 2.01, and
16 starting about the second line where it says
17 "ATXI accords."

18 A. Okay.

19 Q. And so I'm just -- I'm trying to
20 ascertain that -- it appears to me here that ATXI
21 accords more emphasis to a residence that's in
22 closer proximity to the center line of a project
23 when all the other variables are the same.

24 A. That's correct.

1 Q. Okay. And isn't it true that, when
2 you were asked whether or not 500 feet was a de
3 facto industry line of demarcation -- or sorry.
4 When ATXI was asked that question, your response
5 in 2.01(c) -- of course, with the objection that
6 is there -- you still listed or stated that ATXI
7 selected the classifications, and you have a
8 series of feet, but it included 500 to 1,000
9 feet, quote, "as reasonable distance ranges for
10 evaluating the proximity of residences to the
11 transmission line route."

12 MS. SEGAL: Your Honors, I would
13 object to this question. ATXI, first of all,
14 objected to this question within the data request
15 itself; and, further, the response is -- it's a
16 legal conclusion discussing what the company
17 believes is the appropriate distance from the
18 center line based on the 12 criteria set forth in
19 Docket 12-0598.

20 JUDGE ALBERS: Any response?

21 MR. PHILLIPS: Yes. If I may, Your
22 Honors, I'm just trying to establish -- and maybe
23 I'm getting to the point of belaboring it at this
24 point. But it seems that there's been a lot of

1 focus on, by ATXI witnesses, of numbers below 500
2 feet while ignoring increased impacts to houses
3 between 500 and 1,000 feet, especially when
4 comparing Routes A and B.

5 So, as such, I'm trying to establish
6 that there are, in fact, impacts between 500 and
7 1,000 feet and there's not necessarily a direct
8 distance relationship; that is, at 300 feet
9 versus 700 feet, there may not be that 300 feet
10 is necessarily a bigger impact than 700.

11 MS. SEGAL: And I believe Mr. Koch
12 actually says that in response to subpart (a)
13 above.

14 And he further just testified that
15 there is not a direct relationship between
16 distance and impacts.

17 JUDGE ALBERS: All right. The
18 objection is overruled.

19 Do you recall the question?

20 A. I'm sorry. I don't. Can you repeat
21 it?

22 Q. (By Mr. Phillips) That's fine.
23 Isn't it true that, when ATXI was asked if a
24 distance of 500 feet was a, quote, "de facto

1 industry line of demarcation," your answer
2 included and listed several distance
3 classifications which included the 500 to 1,000
4 feet range as, quote, "reasonable distance ranges
5 for evaluating the proximity of residences to the
6 transmission line route"?

7 A. Yes. 500 to 1,000 was one of
8 several.

9 Q. Thank you.

10 Mr. Koch, are you familiar with the
11 proposed modification of Mr. Charles Zelnio?

12 A. I am.

13 Q. And can you -- can you confirm that
14 ATXI's Route A in the vicinity of Zelnio's
15 property -- and if you'd like to refer yourself
16 to ATXI Exhibit 8.2, Appendix B, part 2 of 8, and
17 it's page 5 of 6, or if you're just looking at
18 the pages on the bottom, I believe it's 10.

19 A. Okay. I'm there.

20 Q. Okay. Can you please confirm, then,
21 on that that ATXI's Route A does not track in
22 close proximity to existing property lines?

23 MS. SEGAL: I'm sorry. Can you tell
24 us where? I guess I'm not quite seeing what

1 location you're referring to.

2 MR. PHILLIPS: Fair enough.

3 Q. (By Mr. Phillips) Do you see the
4 green line on that particular page?

5 A. Yes, I see green line on that page.

6 Q. And does that represent ATXI's Route
7 A?

8 A. It does.

9 Q. And heading from west to east,
10 there's a portion just above the word
11 "Section" -- or "Sec. 6" that moves due -- or
12 essentially due west to east.

13 A. I see that section, yes.

14 Q. And then it moves southeasterly till
15 it gets near Interstate 74. Is that a correct
16 characterization?

17 A. I think that's fair.

18 Q. That southeasterly segment is the
19 portion of ATXI's Route A that I'm going to be
20 asking a series of questions about.

21 A. Okay.

22 Q. Okay. And isn't it true that it does
23 not -- that section does not track in close
24 proximity to existing property lines?

1 A. Can you clarify what you mean by
2 "track within close proximity"?

3 Q. Might it help if I just provide you a
4 data response you drafted?

5 A. It may be best, yeah.

6 Q. Okay. There you go, sir.

7 Your Honors.

8 It's 8.2. So it's the maps. On the
9 bottom of the map -- all the maps, it's the tenth
10 page, I believe. I can give you the part number.
11 Yeah. Right there. We're talking about that
12 portion that moves south to southeasterly just to
13 the right of Section 6.

14 JUDGE ALBERS: Okay. Thank you.

15 Q. (By Mr. Phillips) Have you had a
16 chance to review this response, sir?

17 A. I have.

18 Q. Okay. And, just again, a quick
19 series of questions for that segment that we've
20 previously defined.

21 Does it track in close proximity to
22 existing property lines?

23 A. It does not.

24 Q. And does it track existing roads?

1 A. It does not.

2 Q. And doesn't it lie upon or across

3 lands that are predominantly wooded?

4 A. It does lie within those areas.

5 Q. Does it track existing field lines?

6 A. No, it does not.

7 Q. Does it tract existing section lines

8 or map section lines?

9 A. No.

10 Q. Thank you.

11 When you conducted your routing

12 study, Mr. Koch, you utilized data from the

13 Illinois Department of Agricultural and Illinois

14 Department of Natural Resources to determine land

15 cover -- at least in part to determine land

16 cover; is that correct?

17 A. That's correct.

18 Q. And are you aware that that data may

19 not necessarily be correct? Today -- it may not

20 be correct today?

21 A. I'm aware that some land use could

22 have occurred to some degree since that data was

23 collected, or I'm sure that there might be some

24 difference between the current conditions based

1 on the type of land cover data --

2 COURT REPORTER: I'm sorry. The last
3 part of your answer?

4 A. Between the existing conditions and
5 how they currently are.

6 Q. (By Mr. Phillips) Mr. Koch, just one
7 more line of questions.

8 You're familiar with Mr. Ramp's
9 proposed modifications to Route A, which I
10 believe have been called Route A Alt. 1, and then
11 one to Route B which is called Route B Alt. 2.
12 Are you familiar with those?

13 A. Can you repeat that? I think that
14 may be mixed up.

15 Q. Okay. I apologize. Are you familiar
16 with Mr. Ramp's proposed modifications which are
17 called Route A Alt. 1 and Route B Alt. 1?

18 And I understand why you were
19 confused a second ago.

20 A. I'm familiar with those two.

21 Q. Okay. And those routes, at their
22 northeastern most point, have a 90-degree turn.
23 Is that fair?

24 A. I think that's a fair assessment.

1 Q. And the elevation at that
2 northeastern point, you've said, is lower than
3 the point to the west or to the south; is that
4 correct?

5 A. Can you point me to where I said
6 that?

7 Q. If I may, I just have some data
8 requests.

9 After reviewing that, is it true that
10 the northeast corner of Mr. Ramp's proposed
11 adjustment is lower than the surrounding area?

12 A. I think, based on the response -- my
13 response to this data request that I have here in
14 front of me, it states that 850 feet to the east
15 of that northeast corner of the proposed
16 adjustment the elevation is 690 feet, which would
17 be higher than the location of the northeast
18 corner, but it doesn't state the elevation in any
19 other area in proximity to the northeast corner.

20 Q. I thank you for your time this --
21 well, we're just into the afternoon, Mr. Koch.

22 A. Thank you.

23 JUDGE ALBERS: Just before we go any
24 further, Ms. Tomlinson or Mr. McMurtry, do you

1 still have about an hour altogether?

2 MS. TOMLINSON: I just have a couple.

3 I just have three questions.

4 JUDGE ALBERS: Okay. It's okay if

5 you do. We're trying to decide if we should

6 break for lunch now or not.

7 MR. MCMURTRY: Okay. I'd hate to cut

8 it short.

9 JUDGE ALBERS: Yeah. We'll go ahead

10 and break for lunch then.

11 All right. We'll recess until 1:15.

12 Thank you.

13 (Lunch recess.)

14 JUDGE ALBERS: Okay. Go ahead and

15 resume.

16 I think the only cross we had left,

17 then, was from Ms. Tomlinson and Mr. McMurtry.

18 Does it matter which of you go first?

19 MS. TOMLINSON: Go ahead.

20 MR. MCMURTRY: I guess I will.

21 CROSS-EXAMINATION

22 QUESTIONS BY MR. MCMURTRY:

23 Q. Good afternoon, Mr. Koch.

24 A. Good afternoon.

1 Q. My name is William McMurtry, and I'm
2 a landowner intervenor along Route A.

3 In your ATXI revised testimony,
4 Exhibit 8.0, lines 141 and 142.

5 A. Okay.

6 Q. You state that the routing study was
7 not weighted. Would that mean that Route A,
8 being 230 feet from the Brimfield Park and
9 adjacent to the Bethany Baptist soccer field,
10 would have no more weight given to it than going
11 through the field and properly lines on Route B?

12 A. When I'm talking about the route
13 criteria not being weighted, it just means that
14 there was no sort of numerical value assigned to
15 one criteria distinguishing a number -- we didn't
16 give a certain weight or number to one criteria
17 or sensitivity and change that for another one.
18 They were all evaluated holistically in more of a
19 qualitative and quantitative sense.

20 Q. Okay. So what I said, though, Route
21 A going 230 feet from the Brimfield Park and
22 adjacent to the soccer field has no more weight
23 than going through the property lines and field
24 lines of Route B?

1 A. I think that's true. Like what I
2 just said earlier, there was no number giving
3 it -- consideration was given to both of those
4 factors, but no number was assigned to them.
5 That's what this testimony is referring to.

6 Q. Okay. Thank you.

7 ATXI Revised Exhibit 8.0, lines 323
8 through 327. "ATX" --

9 A. Yeah.

10 Q. -- "determines that the presence of
11 abandoned coal mines raised engineering,
12 construction, and reliability risks.
13 Construction of the transmission line across
14 these areas could require significantly more
15 expensive transmission structures, and if the
16 land were to subside after construction, it could
17 impact the reliability of the transmission lines.
18 Because these risks are not present on Route A or
19 B, ATXI decided to exclude Route C as a proposed
20 route."

21 And my question would be, after
22 reading the Fox Creek Opening/AML Narrative,
23 Tomlinson Exhibit 21, that tells of 37 mines east
24 of Brimfield, do you still believe that these

1 risks are not present on Route A?

2 MS. SEGAL: Your Honors, I would
3 object. First, the foundation of the document
4 he's referring to.

5 Second, I would say it's -- well,
6 I'll stick with lack of foundation to begin with.

7 JUDGE ALBERS: Okay. Can you
8 determine whether or not Mr. Koch even knows of
9 your -- knows of this document you're referring
10 to?

11 Q. (By Mr. McMurtry) Have you seen that
12 narrative from the AML about the --

13 A. I've seen, I believe, the narrative
14 you're referring to. The numbers that you're
15 quoting -- I don't remember those specifically.

16 Q. Okay. There is an Exhibit 21, page 1
17 of 3. Could I give him --

18 JUDGE ALBERS: Yeah, if you just want
19 to let him refer to that.

20 Ms. Segal --

21 MS. SEGAL: Yeah.

22 JUDGE ALBERS: Yeah. As long as you
23 can see it too there.

24 Q. (By Mr. McMurtry) Okay. Do you

1 still believe these risks are not present on
2 Route A then?

3 MS. SEGAL: I object to the question
4 as vague. Which specific risk is Mr. McMurtry --

5 JUDGE ALBERS: Referring to? Yeah.

6 Can you identify the particular risks
7 you're referring to?

8 MR. MCMURTRY: It would be the same
9 risks that -- "because these risks are not
10 present on Route A or B, ATXI decided to exclude
11 Route C as a proposed route."

12 MS. SEGAL: There's several risks
13 listed out earlier in the paragraph, among them
14 engineering/construction/reliability risks. So I
15 repeat my objection as vague as to exactly which
16 risks.

17 Q. (By Mr. McMurtry) I would suppose
18 all of them would be -- whatever -- whatever
19 risks, they decided not to put it on C. Would
20 any of those risks be on Route A?

21 A. I don't think I'm the best person to
22 answer those specific risks. This section of my
23 testimony was meant to discuss going from our
24 three preliminary proposed routes that we showed

1 at our open house 2 meetings and then discussing
2 generally why we removed Route C from it. I'm
3 not the best person to address the engineering/
4 construction/reliability risks that are indicated
5 here. This was meant just to capture an overview
6 of the routing process.

7 Q. Okay. Thank you.

8 ATXI Revised Exhibit 8.0, lines 340
9 through 342, states "Although the modified
10 segment is slightly longer, the modified route is
11 still further from the two residences and would
12 have a lower overall impact to the existing
13 agricultural land and potential future land use
14 around the interchange," and that "future
15 potential land use around the interchange" is
16 what I want to question a little bit.

17 Was the potential future land use
18 around the Interstate 74-Kickapoo-Edwards
19 interchange considered? Looking at the map on
20 page 16.

21 MS. SEGAL: Do you want to direct --
22 Your Honors, can we have a page number?

23 JUDGE ALBERS: Yeah. Can you just
24 identified the particular map?

1 MR. MCMURTRY: It's ATXI Exhibit 8.2.
2 It's page 16 at the bottom.

3 JUDGE ALBERS: Okay. That should
4 help.

5 Q. (By Mr. McMurtry) There you route
6 way around --

7 JUDGE ALBERS: Let me find it.

8 A. I'm sorry. One second. I apologize.
9 It looks like, in my binder here, that page may
10 have misprinted or not be present. If I can get
11 another copy.

12 Okay. Thank you.

13 Q. (By Mr. McMurtry) Okay. The way
14 that was modified -- and it's slightly longer --
15 "the modified route is still further from two
16 residences and would have a lower impact to the
17 existing agricultural land and potential future
18 land use around the interchange."

19 Was the potential future land use
20 around the Interstate 74-Kickapoo-Edwards
21 interchange considered? And that would be on map
22 21.

23 A. Yes. Potential future land use
24 changes was considered in the routing of this

1 interchange area as well.

2 Q. Okay. And it looks here, on page 21,
3 it takes four angle structures, two of them 90
4 degrees, to cross that north Kickapoo-Edwards
5 road, and these poles could affect the potential
6 future land use around that area.

7 MS. SEGAL: I would object as to
8 speculation not only to exactly what degree these
9 angle structures would be around this interchange
10 but whether or not they would or would not impact
11 any sort of future growth.

12 JUDGE ALBERS: Overruled.

13 MS. SEGAL: Or --

14 JUDGE ALBERS: Go ahead.

15 MS. SEGAL: I was going to say or
16 whether there would even be any future growth in
17 this area.

18 JUDGE ALBERS: Overrule the
19 objection.

20 Go ahead.

21 MR. MCMURTRY: That would be it on
22 that one.

23 Q. (By Mr. McMurtry) ATX --

24 JUDGE ALBERS: Well, let him answer

1 the question.

2 A. I'm sorry. Can you repeat that
3 question again? Make sure I'm clear on what it
4 was.

5 Q. (By Mr. McMurtry) Okay. It takes
6 four angle structures, two of them 90 degrees, to
7 cross the Kickapoo-Edwards road in this area, and
8 these poles would affect the potential future
9 land use in this area; correct?

10 A. I don't think I can say that these
11 four -- those angle structures specifically could
12 affect potential future land use. We'd have to
13 know actual land use plans, specifically where it
14 was going to be placed, before I could say
15 whether specific poles or angle structures could
16 affect that future land use.

17 Q. But you considered it on the page 16
18 map.

19 A. The different -- in page 16, the
20 route that was modified was a diagonal route that
21 went through the middle of a parcel. So I think
22 it's fair to say, when we moved to the field line
23 and parcel lines, that that would have a less
24 potential impact to future land use if that

1 changed.

2 Q. Okay. Okay. Thank you.

3 A. Yeah.

4 Q. ATXI Revised Exhibit 8.0, lines 365
5 through 368. "The primary reason that Route B
6 was selected as the proposed route is that, in
7 comparison with the other routes we reviewed, it
8 would have the fewest residences in proximity to
9 the route, while requiring the fewest angle and
10 dead-end structures."

11 Did you take into consideration that
12 Route A would be in a close proximity to the
13 Village of Brimfield, to Fox Creek and other
14 nearby subdivisions, and the Bethany Baptist
15 Church?

16 A. This section of my testimony wasn't
17 really related to Route A. It was simply stating
18 why we chose Route B as one of our two proposed
19 routes.

20 So in regards to what I'm stating
21 here, Route A wouldn't have been a part of that
22 evaluation. It was specifically Route B that
23 we're discussing. It was the merits of Route B.

24 Q. ATXI Exhibit 16.0, lines 265 through

1 267.

2 A. Okay.

3 Q. States "In the instance of the
4 Interstate 74 land, which can be overlapped by
5 the project right-of-way, there will be little to
6 no impact since the transmission line structures
7 will not be placed on the interstate
8 right-of-way."

9 Would cutting down the trees in the
10 IDOT right-of-way that are also in the Route A
11 right-of-way called the overlap area be
12 considered little to no impact?

13 A. Well, if we go up just a little bit
14 higher in that answer that I was replying to --
15 or the question I was replying to in that
16 section, it says "The potential impacts to
17 non-vegetative (developed) land from a
18 transmission line will be dependent on the type
19 of developed land" --

20 COURT REPORTER: I'm sorry. You need
21 to go back.

22 A. Yeah. Okay. Starting at line 263,
23 it says "The potential impacts to non-vegetative
24 (developed) land from a transmission line will be

1 dependent on the type of developed land
2 encountered. In the instance of the Interstate
3 74 land, which can overlapped by the project
4 right-of-way, there would be little to no impact
5 since the transmission line structures would not
6 be placed in interstate right-of-way."

7 So my response here was not related
8 to forested land, it was related to
9 non-vegetative (developed) land. So it wouldn't
10 really be relevant to your question, I guess.

11 Q. When you cut down the trees, it will
12 be non-vegetative; right?

13 A. That's correct. But my statement
14 here is related to that condition after that
15 would happen, not a current condition of being
16 forested.

17 Q. Okay. Thank you.

18 A. Yeah.

19 Q. Exhibit 22, lines 133 through 135
20 state "My rebuttal testimony presumes to all
21 facts contained within the document were
22 complete, correct, and timely. Neither ATXI nor
23 HDR ignored any information that any of the
24 landowners provided regarding their mining

1 claims."

2 Why does your Exhibit 22.2 map of the
3 Tomlinson collapsed shaft -- mine shaft site seem
4 to ignore the other 36 mines contained in that
5 letter or that narrative?

6 A. Because the subject of that exhibit
7 wasn't meant to depict those other 36 locations.
8 It was simply to depict the approximate location
9 of the mine shaft that was indicated in the
10 narrative.

11 Q. Okay. So the other mines weren't
12 ignored?

13 MS. SEGAL: I object to that
14 question. First, it is based upon a fallacious
15 assumption that there are 36 other mines in the
16 area. Mr. Koch's testimony just said, in order
17 to evaluate Mr. McMurtry's claim, he presumed
18 that all facts contained within the document are
19 true. There's been no -- the record is -- sorry.
20 There is no basis that the claims that there are
21 36 mines or that anything within that document
22 are actually factually correct, and it's not in
23 evidence that it is.

24 JUDGE ALBERS: Response to that?

1 MR. MCMURTRY: They're saying that
2 this document from the DNR is not correct? Is
3 that what you --

4 JUDGE ALBERS: Just so we're clear,
5 which -- what's the exhibit number on that
6 document that you have in your hand?

7 MR. MCMURTRY: Pardon?

8 JUDGE ALBERS: What's the exhibit
9 number on the document that you have?

10 MR. MCMURTRY: Kellie Tomlinson
11 Exhibit 21, and I might have had it as McMurtry
12 13 too.

13 JUDGE ALBERS: All right. And go
14 ahead, Ms. Segal, if you -- he was asking you a
15 clarifying question.

16 MS. SEGAL: Which one are we talking
17 about? Tomlinson 21 or McMurtry 13?

18 MR. MCMURTRY: It's --

19 MS. SEGAL: This is Tomlinson Exhibit
20 21.

21 MR. MCMURTRY: Oh, what did I say?

22 MS. SEGAL: I would further my
23 objection by saying there's a lack of foundation
24 that there is 36 mines in or around Mr.

1 McMurtry's property or the route. The document
2 itself -- I -- I renew my early objection that
3 there is no authentication to begin with.
4 There's no foundation that the facts within it
5 are even relevant to Mr. McMurtry's or any claims
6 of mining at or near his property. It just
7 simply says there's mines between a site that is
8 somewhere off of Fox Creek Drive and Illinois
9 Route 150 in Brimfield. It doesn't give the
10 locations of these other mines, and it gives
11 another area of a three-mile area.

12 JUDGE ALBERS: Okay. Yeah. I think,
13 Mr. McMurtry, she's concerned that -- and tell me
14 if you disagree with my summation of your
15 objection for Mr. McMurtry. That, based on the
16 Exhibit -- Tomlinson Exhibit 21, that it's not
17 definitive whether or not -- and this her words
18 not mine -- it's not definitive there are 37
19 mines in the particular area of the map you
20 referred Mr. Koch to.

21 Is that in part correct?

22 MS. SEGAL: I will accept that
23 summation as better than how I put it. Thank
24 you.

1 JUDGE ALBERS: So does that make
2 sense?

3 MR. MCMURTRY: Yeah, I guess.

4 JUDGE ALBERS: Okay.

5 MR. MCMURTRY: I'll just withdraw the
6 question.

7 JUDGE ALBERS: Okay. All right.

8 MR. MCMURTRY: If that makes it
9 easier.

10 Q. (By Mr. McMurtry) In your
11 surrebuttal 22.0, lines 158 through 159, "ATXI
12 Exhibit 22.2 indicates the area I believe that
13 the DNR is describing for the location of the
14 collapsed mine shaft."

15 ATXI Exhibit 8.2, Appendix B detailed
16 maps, indicate the location of a mine current and
17 abandoned with a purple/pink highlight -- or a
18 pink highlighted area. Where on these maps do
19 you indicate the mine shaft or mine shaft
20 entrance on those purple or pink areas?

21 JUDGE ALBERS: Could you refer us to
22 the particular pages on Exhibit 8.2?

23 MR. MCMURTRY: Page 3 would be a
24 reference.

1 JUDGE ALBERS: Okay. Thank you.

2 A. Well --

3 MS. SEGAL: I'm sorry. What page was
4 that?

5 UNIDENTIFIED: Page 3.

6 Q. (By Mr. McMurtry) Okay. The point I
7 was trying to make is on this -- your Exhibit
8 22.2, you got an area circled there, approximate
9 location of the collapsed mine shaft.

10 A. That's correct.

11 Q. Now, on these other maps, you don't
12 indicate the location of the entrance to the
13 mines here, do you?

14 This -- this whole area is -- the
15 area that's in pink is -- would be the area the
16 mine was located underground?

17 MS. SEGAL: I'm going to object as
18 compound. I'm not really quite sure what was the
19 question and --

20 JUDGE ALBERS: Yeah. Just break
21 your -- break it down a little more. Like, one
22 question at a time.

23 Q. (By Mr. McMurtry) Okay. Well, on
24 the -- like, on page 3 --

1 A. Yes.

2 Q. -- is there any indication of where
3 the -- the mine shaft that would give you the
4 entrance to that mine would be?

5 A. There's not.

6 Q. Okay. That would be my --
7 ATXI Exhibit 22, 253 to 254, states
8 that IDOT "will accommodate Ameren in the
9 installation of the poles, provided no structures
10 are located in the interstate right-of-way and
11 their policies are met."

12 A. That's correct.

13 Q. Are you familiar with these policies?

14 A. I'm familiar with some of their
15 policies. I don't know that I could say I'm
16 familiar with all of their policies.

17 MR. MCMURTRY: I'd have another cross
18 exhibit, McMurtry Cross Exhibit 5, that I'd like
19 to enter, if I could.

20 JUDGE ALBERS: Okay. We'll take a
21 look at it.

22 MR. MCMURTRY: May I approach?

23 JUDGE ALBERS: Yes.

24 JUDGE VON QUALEN: Mr. McMurtry, what

1 line of testimony were you on with your question?

2 I didn't catch it when you said it.

3 MR. MCMURTRY: Oh, I'm sorry.

4 Exhibit 22, lines 253 and 254.

5 JUDGE VON QUALEN: Thank you.

6 Q. (By Mr. McMurtry) Okay. On this
7 page, number 8 reads "Utility crossings shall be
8 at or as near as practicable to a 90-degree angle
9 with the highway center line."

10 On how many of the crossings of Route
11 A -- of the four crossings of Route A on I-74 are
12 at 90 degrees?

13 MS. SEGAL: I'm going to object to
14 the admission of this data request.

15 First, this is prepared by and
16 sponsored by Mr. Molitor who was available for
17 cross-exam and actually was cross-examined by
18 Mr. McMurtry yesterday.

19 Secondly, Mr. Molitor was the ATXI
20 witness to discuss IDOT's preferences for the
21 90-degree angles, and he would have been the more
22 appropriate witness to discuss that. Mr. Koch's
23 testimony does not discuss the IDOT preferences.

24 MR. MCMURTRY: So this wouldn't be --

1 Mr. Koch did say that they will accommodate with
2 the installation of the poles, provided there are
3 no -- are located within the interstate
4 right-of-way and their policy's are met.

5 MS. SEGAL: Yeah. But that's based
6 upon Mr. Koch's testimony that they will obtain
7 any necessary permits and regulatory approvals,
8 not based upon what engineering reasons or
9 preferences IDOT has for any highway crossings.

10 JUDGE ALBERS: I don't think
11 Mr. McMurtry has moved for admission of it yet,
12 and I think you said you objected to the
13 admission of it.

14 I think all he's asking so far is how
15 many 90-degree crossings would there be.

16 MS. SEGAL: Well, then, I would also
17 object to asking Mr. Koch questions about a DR
18 that was sponsored by another witness that was
19 made available, was subjected to cross-exam, and
20 is the more appropriate witness to ask these
21 questions.

22 JUDGE ALBERS: Okay. Well, sitting
23 here right now, I'm not even sure why we need the
24 reference to the DR. All I've heard him ask is

1 how many 90-degrees crossing are there.

2 Is that -- wasn't that your question,
3 Mr. McMurtry?

4 MR. MCMURTRY: Yes.

5 JUDGE ALBERS: Okay. So objection's
6 overruled.

7 And you can go ahead and answer the
8 question if you know.

9 A. Subject to looking back through the
10 maps and looking at every one, I can think of at
11 least one that is 90 degrees. I can think of at
12 least one that's not 90 degrees. If you want me
13 to look through, I can, if that's --

14 So ATXI Exhibit 8.2, Appendix B, part
15 2 of 8, page 1 of 6, there's one crossing for
16 Route A that's 90 degrees.

17 Exhibit 8.2, Appendix B, page 2 of 8,
18 page 3 of 6, that one's not quite 90 degrees but
19 it's pretty near.

20 ATXI Exhibit 8.2, Appendix B, part 4
21 of 5, page 1 of 5, is the third crossing. Not
22 quite 90 degrees but following a field line
23 approaching from the west.

24 I think I missed one there. I'm

1 sorry. I think I'm missing the page to the third
2 crossing.

3 But I don't believe it's exactly 90
4 degrees for the fourth crossing.

5 Q. (By Mr. McMurtry) Okay.

6 A. So I would say one of them is 90
7 degrees exactly and the other ones are close but
8 not quite 90 degrees.

9 Q. That agrees with what I come up with
10 too. Thank you.

11 A. Okay.

12 Q. Number 1 on that paper that they --
13 that you provided reads "Longitudinal lines --
14 longitudinal utilities shall be located as near
15 the right-of-way line as practicable and not more
16 than eight feet from and parallel to the
17 right-of-way line."

18 MS. SEGAL: I renew my earlier
19 objection, Your Honors. Now we are actually
20 reading directly from the DR attachment itself.

21 JUDGE ALBERS: I'm going to allow the
22 question.

23 Go ahead, Mr. McMurtry

24 MR. MCMURTRY: Thank you.

1 Q. (By Mr. McMurtry) With a seven- to
2 eight-foot -- or seven- to ten-foot offset --

3 JUDGE ALBERS: Mr. McMurtry, I
4 didn't -- did he get any answer to the question?

5 A. I don't think I've had a question
6 yet.

7 JUDGE ALBERS: Okay.

8 Q. (By Mr. McMurtry) With a seven- to
9 ten-foot offset and a six- to ten-foot diameter
10 foundation, how are you going to not be more than
11 eight feet from the right-of-way lines?

12 A. So my understanding of this, this is
13 just a section of the Illinois utility
14 accommodation statutes, and this here pertains to
15 utilities that are placed in the interstate
16 right-of-way. So their concern is that it needs
17 to be within eight feet toward -- within their
18 right-of-way. It has to be within eight feet of
19 the right-of-way line. It's not pertaining to
20 utilities that are outside of their right-of-way.

21 This is just a small section.
22 There's a whole nother section of their statutes
23 related to those situations.

24 Q. Okay. If that's correct, I guess I

1 have no more questions.

2 JUDGE ALBERS: Okay.

3 Ms. Tomlinson, do you have any

4 questions?

5 MS. TOMLINSON: Sure.

6 CROSS-EXAMINATION

7 QUESTIONS BY MS. TOMLINSON:

8 Q. Okay. I was just looking at the --

9 I'm sorry, Mr. Koch. My name is Kellie

10 Tomlinson. I'm an intervenor.

11 A. Hi.

12 Q. Rebuttal line 94 in your -- yes. In

13 your rebuttal, line 94, it states that "Many

14 property lines, field lines, and forested areas

15 are available between the cultivated fields and

16 the transmission line structures and could be

17 placed in the areas between the fields, rather

18 than in the middle of the cultivated fields."

19 And so is it more important -- are

20 you putting more importance on the cultivated

21 fields that could be temporarily out of

22 production as compared to a forested area that

23 would be wiped out forever?

24 MS. SEGAL: I'm going to object on

1 numerous bases.

2 First, the vagueness of something be
3 wiped out forever.

4 Second, it's really broad. The
5 testimony that Mr. Koch is -- that is the subject
6 of the question was limited to responding to a
7 route proposal of Staff witness Mr. Rockrohr. So
8 it's unclear whether the question relates to
9 Mr. Rockrohr's Attachment C route or whether it
10 pertains to any other route or the project as a
11 whole.

12 JUDGE ALBERS: Well, I guess, first
13 of all, was your question geared toward a
14 particular route or just a general question?

15 MS. TOMLINSON: A general question,
16 Your Honor.

17 JUDGE ALBERS: Okay. That being
18 said, I don't have a problem with the question.

19 So do you remember the question?

20 A. I think so. I do.

21 JUDGE ALBERS: All right.

22 MS. TOMLINSON: Sorry.

23 A. So I'll start out -- answer in kind
24 of two parts.

1 Q. (By Ms. Tomlinson) Sure.

2 A. The first, generally, no, no
3 additional preference is given over concern of
4 cultivated agricultural fields and forest. I
5 think I stated earlier about the weighting that
6 that wasn't the case.

7 And, like it says here, this was
8 specifically to respond to Mr. Rockrohr's concern
9 about impacts to cultivated agriculture for his
10 modified Route C. And my response was simply to
11 indicate that there's opportunities in that area
12 to minimize those impacts.

13 Q. Okay. In your surrebuttal, ATXI
14 Exhibit 22, line 156.

15 A. Okay.

16 Q. You say something -- "Based on the
17 description, it's possible the collapsed mine
18 shaft is located on or near the southwest corner
19 of the Tomlinson property." And then it goes on
20 to say -- go down to line 60 [sic] -- "This area
21 is located approximately 500 feet to the
22 northeast of Route A"; correct?

23 A. That's what it states.

24 Q. Okay. So -- but isn't it possible

1 for the mine to run farther than that 500 feet?

2 A. This isn't meant to discuss any sort
3 of -- it's meant strictly to discuss the mine
4 shaft that was the subject of that narrative.

5 Q. And couldn't that mine shaft possibly
6 run longer than 500 feet? Couldn't it? There's
7 a possibility it could hit the north -- the Route

8 A.

9 A. The mine shaft? I'm not a mining
10 expert, but I don't believe shafts are that
11 large, like, horizontally across the ground.

12 Q. Okay. My last question, Your Honor,
13 is surrebuttal, ATXI Exhibit 22, line 273, and it
14 says that road noise was not considered -- or
15 road noise was considered but not quantified;
16 correct?

17 If Route A is chosen, will there be
18 any kind of noise quantified?

19 A. I don't know that I can answer that.
20 I'm not aware of the answer to your question.

21 Q. ATXI doesn't perform noise analysis
22 for the -- when vegetation is cut down?

23 A. I'm not sure. I was -- I'm assisting
24 them on the route selection process, not the

1 evaluation of noise after construction. So I
2 don't think I could answer that.

3 MS. TOMLINSON: Okay, Your Honor.

4 JUDGE ALBERS: Okay.

5 EXAMINATION

6 QUESTIONS BY JUDGE ALBERS:

7 Q. Mr. Koch, I have just two basic
8 questions for you.

9 You referred in your testimony to
10 there being one archeological site along Route A.
11 Do you recall that?

12 A. That's correct.

13 Q. Can you just describe the nature of
14 that archeological site, if you know?

15 A. I can't remember the exact nature.
16 It's in a cultivated field. I believe it was
17 spannable. It was less than the distance of our
18 typical span. I don't remember the exact details
19 of what that site might make up. I -- I know
20 that it hasn't been evaluated for any sort of
21 listing on the National Register, but that's all
22 the details I can remember off the top of my
23 head.

24 Q. Okay. Well, I had the same question

1 regarding the historical site you said exists
2 along Route B. Does that sound familiar?

3 A. That's correct.

4 Q. Okay. Can you describe the nature of
5 that site?

6 A. It was a structure. I think it was a
7 farmhouse that was on the National Register that
8 was some distance from Route B. It wasn't in the
9 right-of-way where it would be directly impacted,
10 but it was an aboveground historical structure.

11 Q. Okay. All right. And, actually, how
12 far was it from Route B, then, if you recall?

13 A. Let me look real quick. I don't know
14 if I have the exact distance, but I can tell you
15 approximately.

16 So it's right here. It's on ATXI
17 Exhibit 8.2, part 2 of 2, page 9 of 22. It's the
18 Washington C. Wear house, and it's approximately
19 .5 miles from it.

20 Q. 25?

21 A. Approximately .5.

22 Q. .5. That makes a difference.

23 Okay. Thanks.

24 All right. Do you have any redirect?

1 MS. SEGAL: Yeah. Just a few, Your
2 Honor.

3 JUDGE ALBERS: Okay.

4 REDIRECT EXAMINATION

5 QUESTIONS BY MS. SEGAL:

6 Q. Mr. Koch, counsel for CARB asked you
7 a series of questions about the threatened and
8 endangered species and specifically the Franklin
9 ground squirrel. Do you recall those questions?

10 A. I do.

11 Q. Does the presence of the Franklin
12 ground squirrel prohibit ATXI from constructing
13 Route B?

14 A. No.

15 Q. What would be the process going
16 forward if Route B is approved?

17 A. Well, if Route B was approved by the
18 Commission, ATXI would continue to consult with
19 the Department of Natural Resources. There would
20 be a meeting with them to discuss the route and
21 their concerns about the ground squirrel. It's
22 likely they would ask for surveys to be conducted
23 for the ground squirrel along Route B. If any of
24 the ground squirrels were found, then ATXI would

1 have to continue to consult with the DNR to
2 determine the best way to minimize impacts to
3 them and potentially have to require an
4 incidental take authorization.

5 Q. And do you know if ATXI has ever
6 dealt with the presence of Franklin ground
7 squirrels on any other projects before?

8 A. Yes. I'm aware of at least one other
9 project where ATXI has had the presence of
10 Franklin's ground squirrels near a route that was
11 approved and has subsequently been built.

12 Q. Do you recall Mr. Phillips asking you
13 a series of questions pertaining to Route A as
14 proposed on Mr. Zelnio's property?

15 A. I do.

16 Q. Is it your understanding that ATXI
17 has agreed to construct the modification
18 Mr. Zelnio has proposed across his property?

19 A. Yeah. For sure that they had no
20 objections to that.

21 Q. And Mr. Phillips also asked you some
22 questions regarding the clearing -- the majority
23 of -- let me restate that.

24 Mr. Phillips asked you some questions

1 about what percentage or the majority of trees
2 being cleared.

3 A. I recall that question.

4 Q. Now, in your response, was your
5 analysis limited to any particular area or were
6 you discussing the project or any route as a
7 whole?

8 A. It was just the section along
9 Interstate 74 of Route A.

10 Q. Okay. And also -- Mr. Phillips also
11 asked you about your data where you received
12 the -- let me -- let me restate this question.

13 Do you recall Mr. Phillips' questions
14 about your land cover data?

15 A. I do.

16 Q. And where did you get that land cover
17 data from?

18 A. It was a dataset that was produced by
19 the Illinois Department of Agricultural and the
20 Illinois Department of Natural Resources.

21 Q. Is that the best available data for
22 land cover usage?

23 A. It is. It's the most current dataset
24 that's available for the entire project area.

1 MS. SEGAL: That's all I have.

2 JUDGE ALBERS: Any recross on those
3 areas?

4 MR. WILKE: Could I ask one
5 follow-up?

6 JUDGE ALBERS: Mr. Wilke.

7 RECROSS-EXAMINATION

8 QUESTIONS BY MR. WILKE:

9 Q. Mr. Koch, can you explain what you
10 meant by, after this survey was taken for DNR,
11 that there might be need for an incidental take
12 authorization? What do you mean by that?

13 A. It was meant that the DNR, if there
14 was an endangered species -- threatened or
15 endangered species close to the route and they
16 felt like the project had the potential to impact
17 that species, they may require that ATXI obtain
18 an incidental take authorization to allow for the
19 take of that species. Typically, that requires
20 some sort of mitigation for that impact.

21 Q. By "taking," you mean take more land?

22 A. No. By -- sorry. "Take" is legal
23 language regarding endangered species. It means
24 to, like, kill, harass -- I don't remember all

1 what instances, but a lot of times it means if it
2 was killed.

3 MR. WILKE: Okay.

4 JUDGE ALBERS: Anyone else?

5 MR. PHILLIPS: I don't believe so,
6 Your Honor.

7 JUDGE ALBERS: All right. Thank you.

8 Was there any objection, then, to Mr.
9 Koch's testimony?

10 (No response.)

11 JUDGE ALBERS: Hearing no objection,
12 then, ATXI Exhibits 8.0 Revised, 8.1, 8.2
13 Revised, 8.3, 8.4, 16.0, 16.1 through and
14 including 16.4, 22, 22.1, 22.2, and 22.3 are
15 admitted in the record, and I will add that there
16 is a confidential and public version of Exhibit
17 22.3.

18 I think that's all the witnesses we
19 have. Is there anything further?

20 MR. STURTEVANT: I do have one item,
21 Your Honor. It's my understanding that ATXI
22 witness Dr. Gelmann will not be able to execute
23 his affidavit until Friday at the earliest. So
24 I'm looking for dispensation to not file that

1 affidavit until Friday or Monday.

2 JUDGE ALBERS: That's fine. I was
3 going to ask you about his affidavit anyway, but
4 that's fine.

5 Just remind you that we will be,
6 within a few days, issuing an outline for the
7 briefs and that simultaneous initial briefs are
8 due June 16th and simultaneous reply briefs are
9 due June 30th, and if anyone wants to exercise
10 the option, they are welcome to submit a Draft
11 Order on June 30th, but you only need to provide,
12 you know, your recommended conclusions and your
13 own -- a summary of your own position. Don't
14 worry about summarizing everybody else's
15 positions, but you do not have to provide that.
16 Just an option. Some people like to.

17 Does anybody have any questions
18 before we conclude?

19 MR. MCMURTRY: Is discovery closed,
20 then?

21 JUDGE ALBERS: Well, as a practical
22 matter, I would say yes.

23 MR. MCMURTRY: Okay.

24 JUDGE ALBERS: Anything else?

1 (No response.)

2 JUDGE ALBERS: All right.

3 We'll just go ahead and continue this
4 generally in case something arises that we can't
5 anticipate right now.

6 So, with that, thank you everyone,
7 and we'll continue it generally.

8 (Matter continued generally.)

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CERTIFICATE OF REPORTER

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